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H. S. G. Tucker

REPORT

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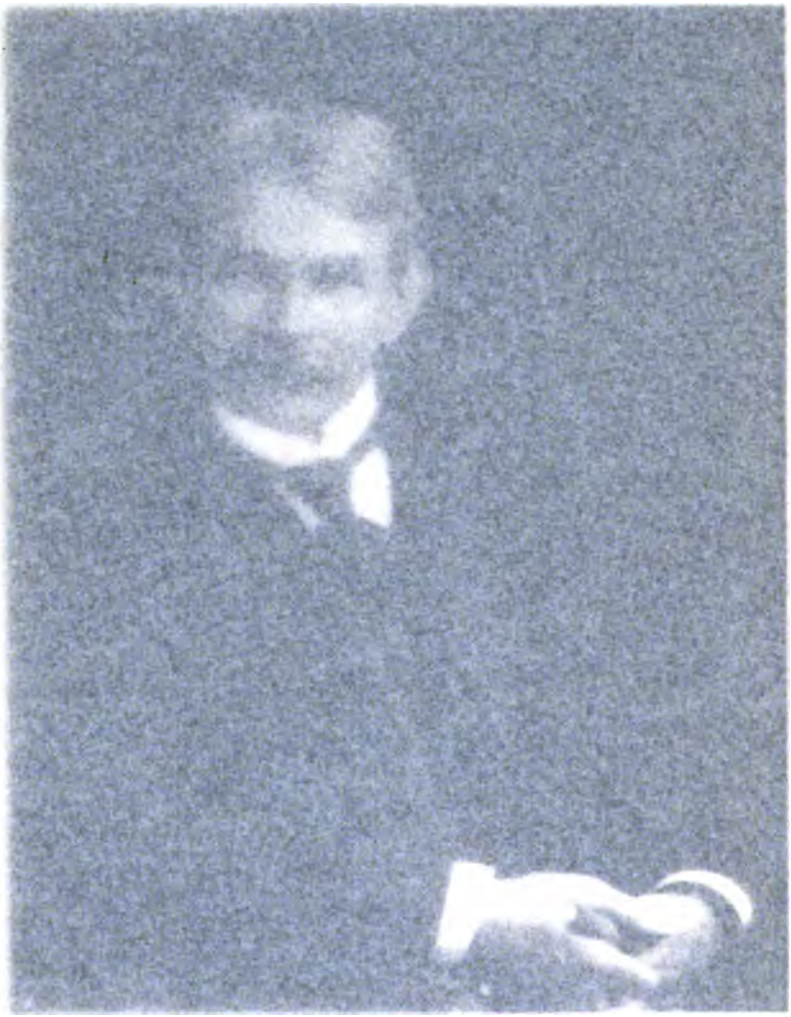

Tuchman

REPORT

OF THE

TWENTY-EIGHTH ANNUAL MEETING

OF THE

American Bar Association

HELD AT

NARRAGANSETT PIER, RHODE ISLAND,

August 23, 24 and 25, 1905.

PHILADELPHIA:
DANDO PRINTING AND PUBLISHING COMPANY,
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1905.

THE

TWENTY-NINTH ANNUAL MEETING

WILL BE HELD AT

ST. PAUL, MINNESOTA,

On Wednesday, Thursday and Friday,

August 29, 30 and 31, 1906.

TRANSACTIONS

OF THE

TWENTY-EIGHTH ANNUAL MEETING

OF THE

American Bar Association,

HELD AT

NARRAGANSETT PIER, RHODE ISLAND,

AUGUST 23, 24 AND 25, 1905.

Wednesday, August 23, 1905.

The Twenty-eighth Annual Meeting of the American Bar Association convened at the Hotel Mathewson, Narragansett Pier, Rhode Island, Wednesday, August 23, 1905, at 10.30 A. M.

The meeting was called to order by James Hagerman, of Missouri, the last President, who introduced the President, Henry St. George Tucker, of Virginia, who then took the chair.

The President:

Gentlemen of the American Bar Association: I am very glad that my first official act in this position gives me the pleasure of presenting to you a distinguished jurist of the gallant little State of Rhode Island, Judge William H. Sweetland, who desires to say a word to the Association.

William H. Sweetland, of Rhode Island:

Mr. President and gentlemen of the American Bar Association: In behalf of the Rhode Island Bar Association, I wish to welcome you to our state and to express to you the pleasure, not only of the members of the Bar, but also of the

people of this state, that you have honored us by selecting Rhode Island as the place for this annual meeting. We are very glad that you are here. We appreciate the importance and the absorbing nature of your deliberations, but we sincerely trust that before you leave us we will have the opportunity and be permitted to become acquainted personally with your distinguished membership, and we also trust that you will find time before you go to see something of us, to consider our history, the kind of our people and to see some of those physical characteristics of our state which we think cannot fail to interest the discriminating stranger within our gates.

We are a small state, and we make but a very small spot upon a quite large map. It is the custom of our neighbors, facetiously and in patronage, to refer to the very limited number of our square miles, but there are favored spots within this state where, as far as the naked eye can reach, one can see nothing but Rhode Island. Those are particularly favored points of survey. Before you go, we trust that you will feel, as we do, that we are not small, but rather that we are compact, easily accessible to each other and that without very much traveling one can get together the numerous data of the problem of what Rhode Island is, which we think will prove interesting to you and is very dear to us.

About six or seven miles northwest of us is the birthplace of Gilbert Stuart, the great portrayer of Washington, and in the old State House at Newport and in the State House at Providence are two examples of his work upon his immortal subject. A little farther west of us is the scene of the Great Swamp fight, an incident so momentous in early New England colonial history. A little farther west still are the tribal remains of the once powerful and numerous Narragansetts. On this water in front of us, in 1775, sailed the fleet of the Rhode Island navy, the first naval force in our history, and from Providence came Esek Hopkins, the first commodore and commander-in-chief of the Continental navy. Across this water, and easily reached from here, is Newport, so full of natural attractions, historic interest

and many exhibitions of the changing of modern wealth into material beauty; the home of Oliver Hazard Perry, the hero of Lake Erie, and of Commodore Matthew Perry, who opened Japan to that career of modern progress of which we hear so much today. A little farther upon the island upon which Newport is situated is the field of the battle of Rhode Island, one of the few pitched battles of the Revolution fought on New England soil. A little farther up on one side of the bay is the harbor of the ancient town of Bristol made famous in recent years by the ship-building skill of the Herreshoffs. Across the bay is the beautiful town of Warwick, the birthplace of General Nathaniel Greene, the second soldier of the Revolution. Above is the location where the men of Rhode Island, in the destruction of the British "Gaspee," entered into the first armed conflict with English authority in all the colonies. At the head of the bay lies Providence, to us the beautiful city of historic association, of wealth, of culture, of commerce and of industry, the seat of Brown University, that ancient foundation of learning, the city of Roger Williams.

These and many other things of natural scenery, of historic interest, of populous city and town, of workshop and factory, Rhode Island presents to the eye of the traveler. All these things we prize. But it is not alone of sea or shore; it is not alone of our wealth that we are proud, but rather of our history and of what we think is the character of our people. Rhode Island is a state founded upon an idea. And ideas and principles have continued to be vital forces in our development. It was not for any commercial or industrial advantage or for any material benefit that Roger Williams came to Rhode Island, but to make here what he expressed as a "lively experiment" of his then novel doctrine of religious freedom, the separation of church and state, and the men who followed him were men of the same character, men of ideas, men of advanced political and religious thought, men with the steadfast and uncompromising courage of their convictions. Those who have come to us later have brought maybe more of material

enterprise; but they, in their turn, have been affected by the character of our founders, and there has gone along with great advance in wealth, great independence, great individuality in our citizens.

In such a community as this, the lawyer must take a high place, and throughout all our history lawyers have been leaders in the political, the intellectual and the social life of our state. It is, therefore, with particular pleasure that a community such as ours, a state founded upon ideas, bids welcome to such a body of men as yourselves, whose avocation is ideas and the consideration of principles rather than compromises, and I feel sure that we will understand each other.

It was the hope of the Rhode Island Bar Association that the length of your meeting here would permit you to be our guests for a sail on Narragansett Bay, and also to partake with us of a Rhode Island clam-bake, that great gastronomic festival indigenous to these shores which, in its best estate, is more than a feast and partakes somewhat of the nature of a rite, but your officers say that it is not possible and, therefore, we have been obliged to curtail our plans for your entertainment.

And now, in behalf of the Rhode Island Bar Association, I want to invite you and the ladies who accompany you here to sail with us tomorrow afternoon and to take luncheon on board. We sincerely trust that all of you may be with us on that occasion.

In the past it has been the privilege of others of our sister commonwealths to welcome this Association and to have this annual meeting of yours within their borders, and though, as compared with them, Rhode Island may be restricted in population and in area, yet in the heartiness of the welcome that it extends to you today Rhode Island stands as imperial as any other.

The President:

On behalf of the American Bar Association, Judge Sweetland, I desire to return thanks for your kind words of welcome, and to say that we have already enjoyed the warm grip

of friendship which the Rhode Island lawyers have extended to us. The invitation which you have kindly extended to this Association, with the gavel in my hand, without putting the question to vote, and, following the example of a distinguished New Englander, I declare unanimously carried. I can only speak for myself in one respect: Your words made me feel very much at home in New England, for as you exalted the glory of this beautiful little state I almost imagined that you talked like a Virginian. We shall be very glad to join with you on tomorrow and throughout our meeting, and extend to you the right hand of fellowship in this brotherhood of our noblest profession.

The President then delivered the President's address.

(*See the Appendix.*)

The President:

The election of new members is now in order.

New members were then elected.

(*See List of New Members.*)

The Secretary:

Mr. President, the Secretary has received credentials from the following delegates from State and Local Bar Associations.

(*See List of Delegates from State and Local Bar Associations.*)

The Secretary:

I have an announcement to make, Mr. President, which, with your permission, I will present now:

In consequence of the absence of Mr. Thomas J. Kernan, who was expected to read a paper this evening, the Executive Committee has asked Mr. Harvey N. Shepard, of Boston, to open a discussion of the question, "What can be done to improve the jury system?" to be followed by an informal debate on the subject by those members who may be present.

The President:

The next business in order is the election of members of the General Council. It is usual for the Association to take

a temporary recess in order to allow the state delegations to select their members.

Members are requested to select as members of the General Council gentlemen who are actually present at this annual meeting.

A recess of five minutes was then taken, after which members of the General Council were elected.

(*See List of Officers at end of Minutes.*)

Ralph W. Breckenridge, of Nebraska:

Mr. President, I ask unanimous consent to speak for a moment of a request submitted by the Attorney-General of the United States, and to present a bill drawn by him to authorize the issuance of special bench warrants in certain criminal cases. It appears that there is no provision for the extradition of a person indicted for a crime in one of the judicial districts of the United States to another district, and I introduce this bill at his request and move its reference to the Committee on Jurisprudence and Law Reform.

The President:

Unless there is objection, it is so ordered.

Talcott H. Russell, of Connecticut:

Mr. President and gentlemen: Judge Baldwin, of Connecticut, is unable to be here on account of his absence in Europe, and he requested me to ask the Association that a resolution be adopted appointing a delegate to the International Law Association which is to meet very shortly in Norway. I therefore move you, sir, that the Chair appoint such a delegate.

James O. Crosby, of Iowa:

The International Law Association meets on the 5th of September, I understand, and it will not be possible for a delegate from this Association to get to Norway in time to take part in their meeting.

Talcott H. Russell:

Judge Baldwin is already in Europe, and if he is appointed as such delegate he could easily be present.

The President:

The Chair would request the gentleman from Connecticut to put his resolution in writing and then to call it up again.

The next business in order is the report of the Secretary.

John Hinkley, of Maryland, the Secretary of the Association, read his report.

The President:

Without objection, the report of the Secretary will be received and filed.

(*See the Report at end of Minutes.*)

The President:

Next in order is the report of the Treasurer.

Frederick E. Wadhams, of New York, the Treasurer of the Association, read his report.

The President:

Under the rule, the report of the Treasurer goes to an auditing committee, the names of which will be announced later.

(*See the Report at end of Minutes.*)

The President:

The next business is the report of the Executive Committee.

The report was read by the Secretary.

The President:

The question is what shall be done with the report of the Executive Committee. As it recommends an amendment to the by-laws, it will have to be voted upon.

James Hagerman, of Missouri:

Mr. President, I ask that there be a division upon the question, and that we vote first upon the recommendation in the report that a Reception Committee be appointed.

The motion amending the by-laws so as to provide for a Reception Committee was adopted.

The President:

In accordance with this vote, the Chair appoints the following gentlemen to constitute the Reception Committee: Charles Claflin Allen, of Missouri; Ralph W. Breckenridge, of

Nebraska; William P. Breen, of Indiana; Rome G. Brown, of Minnesota; Aldis B. Browne, of the District of Columbia; Fabius H. Busbee, of North Carolina; Henry H. Ingersoll, of Tennessee; John F. Lee, of Missouri; William A. Ketcham, of Indiana; John Morris, of Indiana; George Whitelock, of Maryland; S. S. P. Patteson, of Virginia; Rodney A. Mercur, of Pennsylvania; Charles Noble Gregory, of Wisconsin.

James Hagerman:

I now move, sir, that the rest of the report be adopted.

The motion was seconded and adopted.

Talcott H. Russell:

Mr. President, I have committed to writing my resolution in respect to the appointment of a delegate to the International Law Association, and it reads as follows:

Resolved, That the Honorable Simeon E. Baldwin be, and he is hereby, appointed a delegate from this Association to the meeting of the International Law Association which is to meet this year at Christiania, Norway, in September, and that the substance of this resolution be cabled to Judge Baldwin.

John P. Briscoe, of Maryland:

I second the resolution.

Robert D. Benedict, of New York:

Judge Baldwin is a member of the International Law Association, and if he is in Europe now he will probably attend its sessions and he will do so as a member of that Association. Permit me to say, Mr. President, that I should heartily agree with the suggestion, if it is made, to name Judge Baldwin to represent us at the meeting of the International Law Association.

The resolution was adopted.

George L. Reinhard, of Indiana:

Mr. President, I beg leave to offer the following resolution:

Resolved, That the Committee on Legal Education and Admissions to the Bar be instructed to ascertain what degrees are conferred by the law schools of the United States and the conditions upon which such degrees are granted, and also what degrees in law are conferred by other educational institutions.

George M. Sharp, of Maryland:

I second the resolution, understanding that it is to be referred to the committee.

The President:

The Chair understands the resolution as offered merely for reference now to the Committee on Legal Education and Admissions to the Bar.

George L. Reinhard:

Yes, sir.

The President:

Without objection, it will go to that committee. There being no objection, it is so referred.

Amasa M. Eaton, of Rhode Island:

Mr. President, I would call attention to the necessity of a strict observance of our rule requiring every gentleman addressing the meeting to state his name and the state from which he hails in order that those who are here for the first time may know who the speakers are to whom they have the pleasure of listening.

The President:

The Chair trusts that the admonition of the gentleman from Rhode Island will be heeded. The Chair desires to remind the members of the Association present that tonight we are to have a symposium upon the question of whether jury trials can be improved in any way. Of course we have all had our experiences in jury trials, and I doubt not that there are many among us who can relate some very interesting experiences in that line.

M. F. Dickinson, of Massachusetts:

I desire to add a word in line with what our President has said, and I speak as one member of the Executive Committee. Mr. Kernan's inability to be present at this meeting did not become known to the committee until within a very few days. Our President used every means in his power to get some one to fill the vacancy in our programme which his absence created,

telegraphing to many sections of the country to get a substitute, but was unable to secure anybody. Then it occurred to one member of the Executive Committee, the day before yesterday, that we might, perhaps, have a symposium for this evening, which would prove an interesting and instructive occasion for all of us. I happened to know that the gentleman who has been invited to speak this evening had written in the *Atlantic Monthly* upon the subject of the wrongs of the jury system, and as he chanced to be in my office on Monday morning I asked him if he could not come here and address us on the subject. He will open the debate upon the question: "What can be done to improve the jury system?" This is a subject upon which, as lawyers, we are all interested, and on behalf of the Executive Committee I wish to request that all members who are at Narragansett Pier be present, and as many of them as care to do so will come prepared to take part briefly in any discussion that may take place.

A recess was taken until 8.30 P. M.

Evening Session.

Wednesday, August 23, 1905, 8.30 P. M.

The President called the meeting to order.

New members were then elected.

(*See List of New Members.*)

Charles Claflin Allen, of Missouri:

There is a slight technical amendment to the by-laws, which should be adopted to make them conform to the Constitution. The Constitution now provides for eleven standing committees, among which are the Committee on Patent, Trade-Mark and Copyright Law, the Committee on Insurance Law and the Committee on Uniform State Laws. The by-laws provide in section 2, subdivision (*f*), for the exercises at the annual meet-

ing and call for the reports of standing committees and name the original eight committees, but omit the three committees which have since been added and for which provision has not been made in the by-laws. I therefore offer the following amendment to the by-laws:

Amend by-law 2, section (*f*), by adding after the words "On Law Reporting and Digesting," the following, "On Patent, Trade-Mark and Copyright Law; on Insurance Law; on Uniform State Laws."

The result of this amendment will be to make the provision for the exercises at the annual meeting include all of the standing committees provided for by the Constitution. I move the adoption of the amendment.

Rome G. Brown, of Minnesota:

I second the adoption of that amendment.

The amendment was adopted.

Theodore Sutro, of New York:

Mr. President, I desire to take this opportunity to offer an amendment to the Constitution. There is one subject which I take it deserves a separate standing committee. I have mentioned the matter to a number of members, and they seem to think that it would be desirable. It is to have a standing committee on the subject of taxation. The members will remember that last year at St. Louis a discussion took place on a certain subject relating to taxation on a report from one of the committees. That was referred to the Committee on Uniform State Laws, but there is no report from that committee this year. Now this subject of taxation is so vast and is growing in importance in this country every day to such an extent that I would like to offer this resolution and at the same time move that it be referred to a committee of three, to be appointed by the Chair, which committee shall report as to the desirability of so amending the Constitution. The committee can make their report under the head of miscellaneous business on Friday morning, so that if it is the recommendation of the committee that the amendment be made the proper

committee can be appointed to consider the subject and report at the session of the Association in 1906.

Resolved, That Article III of the Constitution be amended by inserting near the end of the second paragraph, after the words "On Insurance Law," the following, "On Tax Law."

The President:

The Chair would state, for the information of the gentleman from New York, that the form in which the resolution comes would require an amendment to the Constitution, and that would necessitate a three-fourths vote of the members of the Association present. The motion of the gentleman, as the Chair understands it, is merely that his resolution shall go to a committee appointed by the Chair to consider it.

Theodore Sutro:

Yes, sir; and to report under the head of miscellaneous business on Friday morning.

Amasa M. Eaton, of Rhode Island:

I second the motion and desire to say that I hope the attention of the committee that will be appointed will be directed to the fact that other changes will be called for, such as we have just made, in order to conform with certain other points in our Constitution and by-laws.

Theodore Sutro:

Of course, and I will embody that suggestion in my motion.

The motion referring the resolution to a special committee was adopted.

The President:

The Chair will appoint the following committee: Theodore Sutro, of New York; Amasa M. Eaton, of Rhode Island; Jacob Klein, of Missouri.

The Chair would also at this time announce the appointment of the following committees:

On Auditing the Treasurer's Accounts: William A. Ketcham, of Indiana; Richard Bernard, of Maryland.

On Publication: George Whitelock, of Maryland; Edward A. Harriman, of Connecticut; Charles Claflin Allen, of Missouri; Francis B. James, of Ohio; Robert M. Hughes, of Virginia.

On Dinner: Frederick E. Wadhams, of New York; Rome G. Brown, of Minnesota; Walter George Smith, of Pennsylvania; Lee W. Hagerman, of Missouri; V. Mott Porter, of Missouri; Albert A. Baker, of Rhode Island.

Gentlemen of the Association: You are aware of the fact that the Honorable Thomas J. Kernan was expected to read a paper before us this evening, but he has been unavoidably detained by illness in his family. We are fortunate, however, in being able to supply a very able-bodied substitute for Mr. Kernan, and it gives me pleasure to present to you the Honorable Harvey N. Shepard, of Boston, who will address us upon the subject of what can be done to improve the jury system.

Harvey N. Shepard, of Massachusetts:

Mr. President and gentlemen of the American Bar Association: It is, of course, rank presumption on my part to attempt in this presence to speak upon so large a theme with only a few hours' notice, with no opportunity for research and with little thought; but I felt under obligation to do what I might when the officers of the Association were confronted with a sudden and unexpected emergency, and I felt myself under particular obligation to the member of the Executive Committee who asked me to speak, because I began practice in his office, and ever since I have been indebted to him for many kindnesses. I venture upon this preface not by way of any apology, as no man need make an apology for doing his duty as well as he can, however imperfectly, under the circumstances; but, if you will bear with me, I must confine my attention to a few memoranda, which I jotted down this afternoon in anticipation of this meeting, and I trust you will deal leniently with me if I attribute an illustration to the wrong state, for I speak from memory, without opportunity to verify

what I have to say; and, as we all know, one's memory is apt to be imperfect. If I do not give the right state, it was some state; and I assure you that the illustration has some application, though how far it is worth anything is for you to determine.

I read in the proceedings of the Universal Congress of Lawyers and Jurists of last year that a professor of the law school connected with the University of Belgium, said: "Jury duty has become so onerous in Great Britain and the United States that no man of high character serves upon a jury." I do not know how that may be in Great Britain, but I remember not long ago on the trial of a cause in Boston the foreman of the jury was one of the largest real estate owners and taxpayers in the city; and, at the same time, in another session of the Superior Court, which is the trial court of our commonwealth, I was trying a case before a jury, one member of which was and is connected with one of the largest banking houses in Boston. The same professor also said: "Nearly all the lawyers of the United States prefer to take their causes before a judge rather than before a jury." If this be so, it is remarkable, when in most states it is provided that litigants may waive a jury, and in very many of the states must claim a jury, that, nevertheless, there are many more cases which are tried before a jury than those which are tried before the court. He said also: "It is the universal opinion that jurors are not competent to render expert opinions." I cannot quite comprehend that, because I never supposed it to be the province of a jury to render expert opinion, but to decide between expert opinions. We do not put a general at the head of the war department, nor an admiral at the head of the navy department. We find it better to have a civilian in such office that he may judge between the expert opinions given to him from the general staff of the army or from the naval board of the navy. So, it seems to me, it is the province of the jury not to be experts nor to give expert opinions, but in some way to decide between the expert opinions which are offered them.

In the same discussion I read that Judge Dillon in reply made a most eloquent and enthusiastic defense of jury trials as a part of our liberties and as the right of the citizen in the administration of law. This last consideration is of great moment and value. It would be most unfortunate if the day should come when, by the abolition of jury trials, the people of this land should have no part in the administration of the courts of law—not simply because of the loss to them from no longer having the privilege of taking part in the trial of cases, but still more from the loss that would come to the great body politic, in that the courts would then be looked upon as something separate and apart, with which the citizen had no concern. It would also be a loss to the lawyer, for it is a valuable training to him when he is called upon to convince a jury as well as to convince the court. Judge Dillon also added that in his long experience he had known of few instances where there had been a wrong result if in the trial before the jury an intelligent judge faithfully did the duty that was incumbent upon him. Lord Bacon best expressed this duty of the judge: "That you be a light to jurors to open their eyes, and not a guide to lead them by their noses." Certainly, very much is to be said in favor of two tribunals: the one to determine the facts, the other to determine the law applicable to those facts as found by the jury. A distinguished ex-President of this Association, Joseph H. Choate, said in 1898: "I cherish, as the result of a life's work nearing its end, that the old-fashioned trial by a jury of twelve honest and intelligent citizens remains today, all suggested innovations and amendments to the contrary, the best and safest practical method for the determination of facts as the basis of judgment of courts, and that all attempts to tinker or tamper with it should be discouraged as disastrous to the public welfare."

I do not suppose very many of us remember what we read in Blackstone. I once heard a well-read lawyer make the remark that all he could recall of Blackstone was the statement that every gentleman should know the law; but I think there is

something said there about trial by jury being the glory of the English law; and, if anyone here recalls the long struggle which took place in England to establish trial by jury, and recalls the many occasions when trial by jury served as a bulwark and protection against cruel laws and the wrath of kings, and sometimes against tyrannical and despotic judges, he must admit that this statement in Blackstone is not very far from the truth.

It is beyond doubt that trial by jury is likely to be with us, at least during our lives; whether any change is to come in the future or not I do not know, but during such time as we take part in affairs a part of the administration of the courts is likely to be found as of old in trial by jury. And this is true, not only because of the merit of that system, but also because the people of the country have an affectionate regard for trial by jury as something which has come down to them by inheritance and as something in which they have faith as a bulwark and protection of their possessions and liberties. Indeed, one English writer has gone so far as to say, "Kings, lords, commons and the statutes of the realm find their end when they succeed in placing twelve men in the jury box." Why twelve is somewhat of a mystery. Blackstone, if I remember rightly, says that the number had some reference to the number of the patriarchs or the number of the apostles. I was told this morning that in one state, Florida, only six jurors are required for a civil trial, while twelve are necessary in a criminal trial. It is not of much moment whether the number of jurymen is a little less or a little more than twelve. We happen to have twelve, and, therefore, conservatively have adhered to that number.

It is interesting to observe that in the older states there is a closer adherence to trial by jury than in the newer states. In many of the latter they have been willing to try the experiment of having some other tribunal than a jury determine causes. In Massachusetts we have had trial by jury from the very beginning; and, in the convention which assembled in

1788 to determine whether or not Massachusetts should give its adherence to the proposed Constitution of the United States, the strongest objection which was urged against that course was based upon the fear that the federal Constitution would not properly protect trial by jury. Probably the proposed Constitution would not have been accepted had it not been agreed that certain amendments relative to jury trials should be made thereto. Articles V, VI and VII of the amendments therefore establish jury trials forever, both in criminal and civil causes, as a part of our national jurisprudence. The first draft of the Constitution of Massachusetts gave the right of trial by jury in maritime as well as in civil causes. It is true that since then the legislature has tried to restrict jury trials. It first provided that one can waive a jury, and when this provision did not very much diminish the number of cases tried before a jury, the legislature provided that, if a litigant wanted a jury he must claim it within a limited time. Notwithstanding this legislation, while one session of the Superior Court in Boston is sufficient to dispose of the causes tried without a jury, it requires seven sessions of the court to dispose of the causes tried by jury, although in all these cases a jury must have been claimed. In one state, and I am not sure but that in three states of the union, not only must the parties claim a jury, but they also must make a deposit of a fixed sum of money in order to meet the expenses of the jury.

Can something be done to improve the jury? The first suggestion would be that something may be done in the way of the selection of the jury. Ordinarily the qualifications for a juror are the same as for a voter; the man who is entitled to vote is entitled to serve on a jury. Would it be well to make any rule of law which would make a juryman of a different grade from a voter? I think not, since there would be introduced, by such a plan, a distinction—one class of citizens being called to serve as jurors, and another and very much larger class to vote. Such a plan would be an unfortunate one to adopt in any community. The better way

is to apply an intellectual test for the voter, and in that way also raise the grade of the juryman. In New York a few years ago a law was enacted providing for two boxes in which the names of jurymen could be put. In one box was placed the names of all citizens who took part in elections; in the other box was placed the names of those citizens who had a right to vote, but who did not exercise that right at elections—one known as the "Voters' box," the other as the "Non-voters' box." It was provided by this law that all jurymen should be first called from the non-voters' box, and only when the names in that box were exhausted should they be taken from the voters' box. This was hardly a way to improve the quality of the jury—providing that when a man became a member of the jury he was looked upon by that very fact as being in a measure a criminal, and that his service on the jury was, in part at least, a punishment because he had not exercised the right of franchise or performed some other duty which was incumbent upon him as a citizen.

It has been suggested that it would be a good idea to provide that a different number than the whole jury should render a verdict; in some states a less number than twelve do so, in some states two-thirds of the jury, and in some states a majority of the jury. In all these states, if I am right in my recollection, while a less number than twelve may render a verdict in a civil cause, the entire twelve must agree in a criminal cause. Such a distinction I believe to be a misfortune. It is not a good idea to teach a citizen that when he comes to take part in serving on a jury there is any different rule to be applied when considering a criminal wrong from that which should be applied when determining a civil controversy. The law is a whole, and all parts of it should be consistent; and for us to teach the people that there is some different rule to be applied in one case from that which would be applicable in a similar case on the other side of the court is a wrong administration. In the constitutional convention in New York a few years ago, when it was proposed to

change the Constitution so that unanimity should not be required of a jury, many of the ablest lawyers in New York opposed it, and the proposition was not adopted. They were right. There is a gain when one man on a jury has a veto, and his associates cannot treat him with indifference, as they might if they could render a verdict without his vote; they cannot render an hasty verdict, but are bound to reason with him and to convince him if possible. It is true, of course, that occasionally there is a stupid or an obstinate man on a jury who stands out because of that fact, but it is rare that such a man is long permitted to serve as a juryman. Generally, it is the case that the man who is in the minority is the ablest and strongest man of the panel, and the one whose reasons often carry conviction and bring the other jurymen over to his way of thinking. Is it not true, gentlemen, in your experience that the number of causes where there comes a disagreement of the jury is exceedingly small in comparison with the whole number of causes tried before juries where they do agree upon a verdict? About three per cent. of all jury trials end in a disagreement. Besides, a second trial always is possible, and it is better there should be a right decision than a quick decision. A verdict determines and passes money and property, and it is not too much to require that the whole jury shall be convinced before one man's property shall be taken from him and given to another. Very much could be done by removing some of the annoyances which accompany service on a jury, many of them petty, but some of them serious, and, whether petty or serious, inconsistent with an high administration of justice, and unworthy of our civilization and the freedom of our country, and without other support than tradition from circumstances and times unlike our own. Why should a man performing that part of his duty as a citizen which relates to service on a jury be excluded from the world when he is asked by the court to take part in the deliberations? A few years ago I was waiting in the Superior Court of Connecticut for a case to be reached which I was to try. A cause

had been finished a little while before and given to the jury. The hour of adjournment for dinner arrived, and, while at the hotel, I noticed some of the jurymen in this cause, which had been finished and which had been committed to them, at the table in the dining room. I said to my associate, "They must have agreed upon their verdict." "Oh, no," he replied, "they have come out to dinner, and they will go back again and resume their consideration of the cause." I said, "They are about here, talking, the same as everybody else." "Yes," my associate said, "but when they get through they will go back and continue their deliberations." I found on inquiry this is the practice in the State of Connecticut—that jurymen, when the hour for the noon adjournment arrives, separate and go to their meals where they please, and when the court reconvenes they resume their deliberations. Then when night comes they go to their homes if they have not agreed and return the following morning and again take up the consideration of the case. I learned upon examination of a capital cause, where a man had been convicted of murder, the cause was carried by writ of error to the Court of Appeals, and objection was made that the jury had separated after the cause was submitted to them by the court and had gone home for the night, and returned the next morning to consider their verdict, and afterwards had brought in a verdict of guilty. The Court of Appeals said this was in accord with long-established usage and practice in the State of Connecticut and was not error.

I believe there are two Western states which have the same practice which Connecticut has in this respect, and I think there are several states, mostly in the South, which leave the matter of the separation of the jury to the discretion of the court. In one state the jurymen may separate in a civil cause, but may not do so in a criminal cause. In another state they may separate in any cause, civil or criminal, unless it be a capital cause, when the consent of the prisoner is necessary.

Why should they be treated with such suspicion that we say to them practically, in effect: You are such weak and untrust-

worthy men that unless we shut you up you cannot be depended upon to render a fair verdict? This does not conduce to bringing strong and manly service into the jury room. It is no protection against corruption, for if a man is corruptible he can be approached just as well before the charge of the court as after. The authenticated cases of corruption and bribery in the jury box are exceedingly few. The same men often are called upon to serve as a committee of creditors in some bankruptcy matter, and it would be considered an insult to them if when once they became engaged in their deliberations they were asked not to separate for meals, not to go home, but to remain together until they had agreed upon the matter under consideration. Yet the very same men, when called to serve on a jury, in a matter of no more importance, perhaps a part of the same kind of controversy, are treated as if they were not to be trusted unless shut up and kept entirely by themselves. The President of this Association, in his very able address this morning, said that it was much better in a law school instead of surrounding a student with espionage to put him upon honor, and I submit to you whether we are not likely to get better, more intelligent and independent service from jurymen if we treat them at least with some confidence that they have the ordinary honesty and integrity of the usual run of people.

This seclusion from the world is sometimes a serious business loss to a juryman. I remember a case where, there happening to be a deficiency in the number of jurymen empaneled, an officer was sent out into the corridor of the court house to get another juryman and he caught a man going through the court house who had not been summoned for jury duty at all, and that man was brought in and compelled to serve at great loss to his business because of his sudden and unexpected interruption to his affairs which it entailed upon him. Sometimes it is most inhuman. I know of an instance where the wife of a juryman serving on a capital cause, where the jury was secluded from the beginning of the cause,

became seriously ill, and no information of her condition was given to the juryman, and she died, and she would have been buried without his seeing the remains if it had not been that the case was finished and a verdict was rendered. Is it any wonder that there is an aversion on the part of business men to serving upon a jury when jurymen are exposed to loss and inhumanity such as in these two instances I have spoken of?

Most people are used in their ordinary affairs to regular hours of labor. I do not mean, of course, that there may not come an emergency or that everybody may not find that he gets to his office an hour earlier or stays an hour later at times, but there is some approach, at least in ordinary occupation, to regular hours of labor. On the other hand, a juryman does not know how many hours he may have to serve in a day, nor how far into the night he may be compelled to remain away from his family. Yet in any other duty which a citizen must perform—except, of course, in the case of war—when he leaves home in the morning he goes with some expectation that he will return by a particular time of night. But if a man is serving on a jury he does not know whether he is going to get home for dinner, or at what hour in the evening he will get home, or whether he will get home before the next day. I am not speaking of emergencies which may arise, but simply that in the ordinary occupation of a juryman he cannot make any engagement with any degree of certainty that he will be able to keep it. In Connecticut a juryman is treated like any other officer of the court; he serves the same hours; he goes to court in the morning at its opening; he leaves at the noon recess, and he leaves again at the adjournment for the day. He is treated like any other person who takes part in the administration of justice.

Most of us have become habituated to certain regular hours for food and sleep, and, whatever our avocations may be, there is some general rule as to when we expect to get our meals and when we expect to get our sleep; but if a man is called for jury service he is exposed to irregularity in all these respects.

Now, why should this be so? It is said that it is for the purpose of bringing the jury to an agreement. But I submit that is hardly the purpose of maintaining courts and providing jurymen—to bring about an agreement through starving them and depriving them of sleep. Dispatch of business is not the great aim in courts of justice, but rather the detection and punishment of wrong. If these things were changed and a juryman was treated like any other officer of the court, should we not find that many business men who now shrink from service on a jury would be more willing to take part in its deliberations. In People *vs.* Sheldon, 156 N. Y. 268, where the trial judge kept the jury out three days and a half and so compelled a conviction, the Court of Appeals set it aside as obtained manifestly by coercion and not by reason or evidence.

Once the conditions were very much worse than they are now. We read of the old days in England, where four men prevented the jury from agreeing and the jury had been kept out all day and all night without food or sleep, and there was a riot, and those four men were in danger of their lives, set upon with such fury by the other eight jurors, that they agreed to a verdict because their companions on the jury were starving. We read of instances in England of fines being imposed on jurymen who did not agree, and sometimes they were sent to prison for not agreeing. In fact, it was a part of the old law that jurors might be kept without meat or drink, without heat, without a light, until they agreed upon a verdict, and in some cases they could be put into a cart and driven about upon the circuit, following the judge from place to place until they should render a verdict. Of course, we should all say that such things were barbarous and utterly impossible to take place today. But where is the difference in principle between them and depriving a juryman of his ordinary and regular meals and keeping him hour after hour at night without sleep in order to get a verdict? In some respects the old system was more merciful, because jurymen could be added to the panel until there were found twelve who would agree.

We are a patient people. We do not make changes, as a rule, until there comes some striking occasion for them, where wrong has been done which is brought home to our notice. It is not the fault of the judges that such things take place. Indeed, such alleviations as have been found for juries have come from the judges. But the judges are necessarily conservative; they move slowly, and they are not given to making any rash changes. Therefore, such changes, if they come, must come from the act of the legislature; and I believe no body of men would welcome a provision for more humane, just and reasonable treatment of jurymen than the judges of our courts.

Complaint sometimes is made of the quality of jurymen; sometimes it has foundation; generally, it has not; but I submit whether we should not be likely to improve the quality of the jurymen if we would remove these petty and unnecessary annoyances, if they were treated like other persons engaged in ascertaining rights, given regular hours of employment, permitted to have their meals and their sleep at regular times, and not treated with so much suspicion that they must be shut up as weak and utterly untrustworthy citizens.

The President:

The Association is very grateful, I am sure, for these interesting and suggestive remarks. The subject is now open for general discussion.

Walter S. Logan, of New York:

I think there is one reason why we should maintain our jury system in this country that was not touched upon by the speaker. Ours is a judge-governed land. It is a land of liberty because it is a judge-governed land. We are in no special danger of executive usurpation. The only despotism that would be possible here would be judicial despotism; the judge with his injunction is more likely to become a despot than the governor with his very limited powers. But we are in no danger of judicial encroachment upon our liberties while the administration of justice is divided between judge and jury.

The jury is our refuge, the instrumentality which will preserve our liberties in the last instance in case the necessity arises. The jury is the popular side of the administration of justice in this country. I should be glad, indeed, to see our jury system in any way improved, but sorry to see it ever impaired or its usefulness diminished, because as long as it continues our liberties are safe. Well may we honor those Saxons of old from whom we derived our jury system. It comes to us with the Magna Charta; it comes to us as a part of our organic system of freedom, and it is necessary for the administration of justice in a free country like ours, and is required for the protection and conservation of our rights.

Joseph Hansell Merrill, of Georgia:

Just a word in connection with the first point made by Mr. Shepard, as to restricting the number who may serve upon juries. The law in Georgia has been, for a longer time than I can remember, that a jury commission, appointed by the judge of the Superior Court, takes a list of the voters of the county, and from that list selects "upright and intelligent" men, and puts their names in the jury box. Therefore, the list of those who may serve upon juries is very much smaller than the list of those who have the right to vote. I do not know that jurors in Georgia are any more righteous or wise than are jurors in other states of the union. I have had a streak of rather bad luck this year before juries, and I am not boasting of the jury system generally, but there has not been any general complaint of the verdicts of juries in Georgia, and I certainly have never heard of any complaint of this method of restricting the number of those who can serve upon juries. This satisfactory experience of the State of Georgia on this line, I think, might encourage other states to restrict the number, and thereby elevate the character of their juries.

Lynde Harrison, of Connecticut:

I live in Connecticut, in the city of New Haven, and I was very much interested in hearing what the gentleman from Massachusetts said concerning the Connecticut jury system.

It grew up with us as it did in Massachusetts in the days of our Puritan ancestors, and gradually we have tried from generation to generation to improve the system. One great improvement that we have made within the last few years is in the method of selecting jurors. Formerly the civil authorities of each town, in the month of January in every year, put into the jury box the names of a dozen or fifteen or twenty men who were thought fit to serve on juries. In the early days it was said that the best men were selected for this service. Finally, however, in some of the towns it was found, when the civil authorities got together and looked over the list of the men in the town who were anxious to hold political office, that they had to fill the offices of selectmen and grand jurors and jurors and constables, and there were some men who had not arrived at a sufficient grade of reputation to be selected as constables, and so they put their names in the jury box to serve as jurors. The result was not entirely favorable, and the attention of the Bar was called to it. So a few years ago a law was passed in Connecticut requiring each town by its civil authorities to put twice the number of names in the jury lists and send them to the county seat and then a commission of three intelligent men of the county was appointed to go over the lists in every town, make inquiries, and strike off at least one-half of the names sent in. Under that plan good men have been selected for the last few years for jurors in Connecticut, and we have been very well satisfied with that law. I mention this because I think it is a step in the right direction in our state. I think it might be followed in some other states, for I know something about the jury system of other states and I think the names in the jury box could be weeded out to advantage by careful men authorized by law for that purpose. We have another system in Connecticut which is not favorably considered in Georgia and Massachusetts, and I have known something of the practice in those states for a good many years. It is this: When a suit is brought by a man who has been injured on the highway, partly by his own

carelessness and negligence, and he thinks he can recover handsome damages, he sues the town and he puts his case before a jury, thinking the jury, out of sympathy for him, will give him substantial damages. When a man has been injured in a factory where he is employed, and thinks he can recover damages, he puts his case before a jury. Where a man is injured upon a railroad bridge, partly by his own negligence, and he cannot settle with the company, he puts his case before a jury. A good many years ago our Connecticut Supreme Court decided that the defendant, in any case where the action is brought against a town or corporation or other defendant, may default the case, and take it away from a jury, and under such circumstances the damages are assessed by a judge. We think that plan is much more satisfactory. There have been a few instances of people injured in railroad accidents in Connecticut, who, knowing the law there, have moved into Massachusetts and brought their suits in that state. Perhaps the gentleman from Massachusetts can tell us whether he thinks that is an improvement on the Connecticut system. It gives the Bar of Massachusetts cases that would otherwise go to us. My friend from Georgia has said something about the jury system that they have in the South. They have a good system there. I spend some time there every winter, and I know it. I saw a case there last winter where a man shot his mother-in-law in a family quarrel and a jury in Thomas County acquitted him.

M. F. Dickinson, of Massachusetts:

I should like to add to the interest of this occasion by relating two or three incidents which occurred in my practice. I will preface what I have to say by stating that, after all, I think what the gentleman from Massachusetts has said, though important, is really summed up and ought to be summed up in the criticism which can be justly made in reference to the selection of jurors. I think the viciousness of our system is that the method of selection of jurymen in most of the states is entirely wrong; if not wrong in principle, it is wrong in its

application. The fact is, and it must be confessed by every intelligent lawyer here, that we do not succeed generally in getting into the jury box and keeping there the men who ought to be there. That is one of the great difficulties we have in the administration of justice everywhere. I have tried quite a number of jury cases in the last five years, and I recall only one juryman from Ward Eleven, in Boston, who has sat in any of those cases. And here I must say I do not think our judges quite do their duty when under pressure they excuse men from Ward Eleven from doing what one of my Irish friends called "high service," while they allow men from the shore front and from the north end of the city to sit in their places. I had this experience with a very witty and able member of our Bar. We had three cases to try, which entitled each of us to six challenges. My friend succeeded in getting off the jury all the Americans except one, and, as he told me afterward, when we walked down to the scene of the accident to look at the situation, and I remonstrated with him for excluding those men from the jury, he said, "Well, I looked the jury over and I told my associate, 'There's one Yankee left on the jury; take his head off; it sticks up like a sore thumb.'" So I had to go to trial with twelve jurors of my friend's selection, and it would not have been possible for that situation to have existed if the judges of our courts had not excused men who ought to have sat upon that panel. There ought to be some way of compelling our business men, our leading citizens, to perform their jury duty. Then I think we would hear a great deal less talk about the unsatisfactory way in which justice is administered under the jury system. A few years ago at one of our meetings I heard a very interesting story told by a gentleman from Alabama. He said there had been a law in his state at one time which required a residence of six months in the state and registration before a man could vote. A colored man had come from Louisiana into the state and voted after a residence of three months. He was indicted and put on trial. The gentleman who told this story said that a friend

of his was the district attorney who conducted the prosecution. The case was opened; the law was stated by the attorney for the state, and witnesses were called. The counsel for the defendant sat mute; he had no questions to ask at all, and was perfectly satisfied to let the prosecuting attorney put in his case. The judge charged the jury that, if the defendant came from Louisiana and voted, not having resided in Alabama for six months and voted without registration, there should be a verdict of guilty. The counsel went off to dinner, and when they were returning to the court house they met the foreman of the jury coming down the steps. The attorney for the government said, "You have agreed pretty quickly." "Oh, yes," said the foreman. "We have had a very successful term of court, Mr. Foreman," said the attorney, "I have tried fourteen cases and I have had verdicts in them all." "But," remarked the foreman, "you mustn't be sure about this last case." "Why, you don't mean to say that you have acquitted that nigger?" "Of course we have," said the foreman; "what else could we do?" "Didn't you hear what the judge said," said the lawyer; "that if the defendant had not resided in the state six months and been registered he should be convicted?" "Oh yes," said the foreman, "we took all those points into consideration; but we knew one thing that you didn't know, and the judge didn't know, and that was that that nigger voted the democratic ticket."

Amasa M. Eaton, of Rhode Island:

Mr. President, I desire to move that when we adjourn tomorrow it shall be promptly at twelve o'clock. In making this motion, I wish to say on behalf of the Committee of Arrangements of the Rhode Island State Bar Association, that we purpose taking the members of the American Bar Association, and their ladies and the guests who may be here, by trolley cars as far as Saunderstown, which is a ride of about twenty minutes, and there embark upon a steamboat for a trip around Narragansett Bay, and it will be necessary to start on the trip not later than half-past twelve.

George D. Watrous, of Connecticut:

I second the motion.

The motion was adopted.

The Association then adjourned to Thursday, August 24, 1905, at 10 A. M.

Second Day.

Thursday, August 24, 1905, 10 A. M.

The President called the meeting to order.

New members were then elected.

(*See List of New Members.*)

Franklin M. Danaher, of New York:

In view of the short session this morning and the extent of our programme, I would like to suggest that some announcement be made as to what the Association is to take up this morning; and, in view of the fact that we are going to adjourn at twelve o'clock, I would move that the report of the Committee on Insurance Law be made a special order for tomorrow morning at ten o'clock.

John C. Richberg, of Illinois:

I second that motion.

The motion was adopted.

The President:

Gentlemen of the American Bar Association: It gives me great pleasure to present to you this morning as the orator of the occasion, the Honorable Alfred Hemenway, of Massachusetts, a distinguished member of this Association for many years and a gentleman who has illustrated in his life the highest virtue of the American lawyer.

The annual address was then delivered.

(*See the Appendix.*)

The President:

The regular order now is the calling of standing committees. The Committee on Jurisprudence and Law Reform. Mr. Benedict, of New York, is a member of this committee, and the Chair would ask him if he has any report to present.

Robert D. Benedict, of New York:

The Chairman of the committee is not present, and in his absence I beg leave to say that the only report which the committee has to make is in reference to the bill which was referred to the committee by the action of the Association yesterday. The committee reports recommending that the bill be referred to the committee to be appointed for next year.

The President:

Without objection, it will be so ordered. It is so ordered.

The Committee on Judicial Administration and Remedial Procedure.

A. J. McCrary, of New York:

There was nothing referred to our committee last year and the committee has thought of nothing to report on; therefore we make no report.

The President:

The Committee on Legal Education and Admissions to the Bar.

The Secretary:

The Chairman of that committee is not present.

The President:

Is there anyone present from that committee? If not, we will pass on. The Committee on Commercial Law. Mr. Logan is Chairman of that committee, I believe.

Walter S. Logan, of New York:

Mr. President and gentlemen: The Committee on Commercial Law sometimes agree and sometimes do not agree. They are capable of agreement, and they always do agree when the majority is reasonable. I have the honor of presenting the report of the committee upon the Bankruptcy Law, in

which a majority of the committee, and all the members of the committee that are in this country and within reach, join. It is a unanimous report, therefore, from the members of the committee who are in this country and have taken the matter into consideration. The report is in print, and therefore I will not read it, but state its substance. This is the eighth report that the committee has made upon the subject, and their reports have, to a large extent, been embodied in the jurisprudence of the country, and I believe it is the general opinion that the Bankruptcy Law as it stands has been very much improved through the work of this Association. This Association stands committed by its action through a long series of years to the retention upon the statute books of the United States of the Bankruptcy Law as part of our permanent jurisprudence. Year after year the Committee on Commercial Law has reported in favor of the Bankruptcy Law, and of amending it to make it as perfect as possible, and year after year this Association has sustained the committee in its report. A bill is now pending in Congress to repeal the Bankruptcy Law. This bill the committee vigorously oppose, and in opposition to it the members of the committee feel that they are supported by the commercial bodies of the entire country. We believe that, while the Bankruptcy Law is by no means perfect, and is still capable of amendment to its advantage, the principle of it is wise legislation, and the present law as it stands is probably the best Bankruptcy Law we have ever had. We hope to improve it, and secure amendments which will make it better, but we ask the American Bar Association to stand behind the principle that a proper Bankruptcy Law is wise legislation, and that it should remain on the statute books as a part of the permanent jurisprudence of the country, and not be enacted one year, repealed the next, and again re-enacted in the year following. We therefore recommend a series of resolutions, which I will read.

(*See the Report, containing the resolutions read, in the Appendix.*)

Everett P. Wheeler, of New York:

I move the approval of the report and the adoption of the resolutions.

George Whitelock, of Maryland:

I second the motion.

The report was approved, and the resolutions were adopted.

Walter S. Logan:

I desire to bring up now the report of the committee of last year, which, after some discussion, was postponed to be heard at this meeting. That report last year consisted of a majority report and a minority report. This year, in pursuance of the permission granted at the meeting in St. Louis, I have added to the minority report some additional considerations which I will either read or state as the Chair directs.

The President:

The Chair understands the rule to be that where a report has been printed and mailed fifteen days before the meeting of the Association it cannot be read.

Walter S. Logan:

Then I will state the substance of it. Two years ago I was compelled to read my report in spite of that rule. This year I am very glad to be relieved of the necessity of reading it. Two years ago the Committee on Commercial Law made a report in which they advocated certain legislation in reference to commercial combinations. That report gave rise to considerable discussion in the Association, and, after a motion to disagree with it had been voted down, it was referred back to the committee with instructions to report specific remedies for any unlawful combinations which may exist. Last year the composition of the committee was changed, so that I found myself in a minority. There was a majority report and a minority report submitted. The majority report was to the effect that no legislation was needed. The minority report recommended the passage of two specific items of legislation, reported in accordance with the direction of the Association

the year before. It stands in just that way now. The report that I submit this year I have no doubt you have all read in connection with the reports submitted last year. It is my opinion that the Sherman Act, which confers new rights upon the citizen, should also be amended so that the citizen who is vested by law with those rights may have the ordinary remedies in law and in equity for their enforcement. As the law stands now, a citizen affected by the Sherman Act, who has rights secured to him by that law, is only allowed to enforce those rights in an action at law. The amendment I propose is that he shall have a right to enforce his rights, when the circumstances warrant it and the facts justify it, in a court of equity, in the same manner as any other right may be there enforced. I simply ask to have the equity jurisdiction extended to cover the rights conferred by the Sherman law, as well as those conferred by other laws upon the statute books. There is no other law that I know of under which a citizen, when he is specially injured, cannot bring an action in equity to protect his rights. I ask that he be allowed to do so when his rights are affected by a violation of the Sherman Act. The other recommendation relates to franchise taxation, and provides that where there is a franchise tax it should be graded up instead of down, so that the last million will pay more than the first million.

I submit this minority report, and ask the Association to do equal and exact justice as between the minority and the majority report.

(*See the Report in the Appendix.*)

The President:

Does the gentleman from New York make any motion?

Walter S. Logan:

I move that the majority report of last year be disagreed with, and that the minority report be adopted.

William Hepburn Russell, of New York:

Do I understand that the only amendment which the Chairman of the committee makes by his minority report is to Section 7 of the Sherman Act?

Walter S. Logan:

That is the only amendment.

William Hepburn Russell:

Then I understand that is the substance of the minority report, and the majority report was in opposition to that proposed amendment.

Walter S. Logan:

Yes, sir.

William Hepburn Russell:

Then I second the motion that the gentleman has just made, that the majority report be disagreed to and the minority report adopted.

Robert D. Benedict, of New York:

I think that Mr. Logan in the minority report which he has now presented to this body, has modified very decidedly the minority report of last year. I do not think that the minority report of last year should be adopted, but I should be in favor of the change in legislation which is recommended in the report of this year.

Walter S. Logan:

With the permission of the Chair, I will change my motion to meet Mr. Benedict's objection, and I will move that the minority report of this year be adopted in place of the majority report of last year. If there is any change, I want to stand by this year's report.

Theodore Sutro, of New York:

I understand, then, that this report recommends only the amendment of section 7 and does not recommend the passage of an act or the amendment of the Sherman Act to the effect that this Association is in favor of a graded franchise tax. Is that correct?

Walter S. Logan:

The report covers both. I am willing that that question should be divided, if need be; but the only amendment to the Sherman Act which is proposed is the one giving a court of

equity jurisdiction at the instance of a private citizen whose rights are specially affected by it. The other is an affirmative act, which appears in full in the report of last year, and which I still recommend; but I am quite willing that the report should be divided if some gentleman is in favor of one and not in favor of the other.

Frederick N. Judson, of Missouri:

I should like to ask the Chairman of the committee of which I am a member whether the matters included in his present report, printed for this year's meeting, have been submitted to the committee?

Walter S. Logan:

The resolution of last year was that the majority and minority reports of the committee be received and filed, and, inasmuch as the reports were not printed and distributed the requisite number of days before the meeting, their consideration should be postponed until this meeting. That left it to the committee to amend or supplement its reports. This report of the minority of the committee has been printed and distributed, as required by the by-laws. As to the supplemental part of the minority part it is true that I did not submit it to the majority of the committee.

Frederick N. Judson:

Now, Mr. President, I think we are confronted with another proposition. I have the honor to be a member of this committee. We filed a majority report last year, to which the Chairman of the committee filed a dissenting report. That dissenting report included certain specific recommendations. They were not printed in time for consideration at that meeting, and were therefore laid over; and I believe, as the Chairman of the committee states, for the purpose of allowing the committee to make other and further report. But I do not understand that that action gave authority to individual members of the committee to make up their own report, and, without conference with their associates on the committee, bring them in

here. You will find by a comparison of the distinguished Chairman's report—which I must call his individual report, for he did not favor his associates on the committee with an invitation nor an opportunity to consider it—that it very materially differs from the report submitted by him last year as a minority report. It embodies two very important matters of legislation. One of them proposes changing the jurisdiction of the federal courts, as compared with the jurisdiction of state courts, so as to include controversies between citizens of the same state. The other adopts a scheme of progressive taxation in corporations dealing under interstate commerce. Without discussing the merits of those two propositions, I desire to state that it seems to me that it is vital, in order to secure intelligent discussion in a body of this sort, that reports purporting to come from a committee should first have been considered by the committee. As it is now, the members of the committee—Senator Manderson, Mr. Whitelock, Mr. Hensel and myself—had no intimation that our distinguished Chairman was going to make any other or different report now than he made last year.

The President:

For the purpose of enlightening the Chair, will the gentleman from Missouri state whether the minority report filed this year contains recommendations for legislation different from the minority report of last year?

Frederick N. Judson:

Most certainly it does.

Walter S. Logan:

I do not agree with that.

Frederick N. Judson:

The very fact that we disagree shows that the matter is a subject of disagreement in the committee. The gentleman last year proposed a bill which he now proposes with some modification—not as a separate bill, but as an amendment to the Sherman Act. In his report of last year he recommended a

scheme of federal incorporation, and this year he recommends something else. But the point remains that the Association is confronted with a specific rule which provides (section XII of by-laws) that, "No legislation shall be recommended or approved except upon the report of a committee." Now this report, I maintain, has not been considered by the committee. I have no doubt that the considerations brought forward in it by the distinguished Chairman of the committee are very weighty, but I submit that the Association is entitled to the benefit of a report of the committee upon them, and that has not been had. Therefore, Mr. President, I make the point of order that, under the rule, this report cannot be considered by the Association at this time.

Walter S. Logan:

I desire to correct the gentleman from Missouri, who is a member of the committee. The minority report this year recommends precisely the same thing that it recommended last year; one feature of the report of last year being in exactly the same words. As to the other feature of the report, that is, the amendment of the Sherman Act, I thought, upon reflection and further consideration, that the statute which I proposed last year would be better if proposed as an amendment to the Sherman Act. So it is now proposed as an amendment to the Sherman Act. That is what is proposed and nothing else. There was some criticism made last year as to the language of the proposed statute, and to avoid that criticism this year I ask that it be in the form of an amendment to the Sherman Act. In other words, legislation which gave a court of equity jurisdiction was what I proposed last year. I propose now that the courts of equity be given such jurisdiction by an amendment to section 7 of the Sherman Act rather than by a special act. There is nothing proposed in this report this year which was not proposed and advocated in the report of last year. The substance is entirely the same. I have simply changed one of the recommendations in language by adding it as an amendment to the Sherman law itself rather than as a

separate act referring to the Sherman law. I submit that there has been no change in the substance of the report, and I think I had a right, under the resolution adopted last year, to make the change in form that I have made. I submit that the point made by Mr. Judson that there must be a report by the majority of the committee is not well taken. There must be a report from the committee bringing the subject matter before the Association. Then when it is before the Association it may be considered and the Association can adopt the majority report or the minority report as they think proper. I should be very sorry to have the precedent established here that this Association has no power in law to adopt a minority report when the majority report does not agree with the sentiments of the members of the Association. The reason why this proposition is not reported by the committee is because the majority of the committee did not approve of it.

Frederick N. Judson:

I would like to ask Mr. Logan a question. Did not your second recommendation of last year contain something different from this, and have you not very materially changed that in your report this year?

Walter S. Logan:

No, sir.

The President:

Gentlemen, the hour of twelve o'clock having arrived, under the resolution adopted last evening, we must adjourn. I, therefore, declare a recess until 8.30 o'clock this evening.

Evening Session.

Thursday, August 24, 1905, 8.30 P. M.

The President called the meeting to order.

Everett P. Wheeler, of New York:

The paper that we are all hoping to hear from Mr. Hand this evening is one of great interest, and I can hardly expect

that members of the Association will wish to have it postponed even for a moment. But there is a report from the Committee on International Law which will have to be submitted at some time and upon which no debate will arise, as the committee makes no recommendations for action by the Association. It occurred to me, if no objection was made, that it might be presented now before the regular business of the evening is taken up.

I will state briefly on behalf of the committee that, following our usual practice, we have dealt with the progress that has been made and the questions that have arisen in international law during the year. The first of those questions arose upon the action of the administration in negotiating general arbitration treaties. The Association will remember that at the last meeting in St. Louis, joining with other bodies which had taken action in the matter, we passed resolutions urging upon the Senate to ratify those treaties. When the treaties came up for action, an amendment was adopted by the Senate which radically changed their effect. They authorized the President, in any particular case coming under the language of the treaty, to draw up and submit what is known in the treaty as an agreement—what is in the French text of the Hague Convention a compromise, which is nothing in the world but an agreed statement for submission to the arbitral tribunal. The Senate struck that word out and substituted the word "treaty." The effect of this amendment would be to require the consent of the Senate to every particular arbitration in the future. That amendment the administration declined to recognize, and accordingly the treaties fell.

Now, the committee has considered the question of law as to whether or not it is competent for the President, with the advice and consent of the Senate, to make a general arbitration treaty. Let me note, in passing, that if the United States has not this power, it is the only government which has it not. The report calls attention to the fact that the very first arbitration treaty made by the United States, the Jay treaty of 1794 with Great

Britain, provided for three arbitral tribunals which were to pass upon three separate classes of claims or questions, not referring any specific question to any one of them, but providing for a decision of various classes of questions by a court created by the treaty. We then draw attention to the fact that was called to your attention also this morning in the very interesting address that we heard from Mr. Hemenway; that is to say, that the Supreme Court has held from the beginning that where power is given in the Constitution in general terms it is not to be limited by construction. It was under that doctrine that the Supreme Court held, as Mr. Hemenway pointed out, in the case of American Insurance Company *vs.* Cantor,[1] that we could acquire territory by treaty. Nothing is said in the Constitution of the special acquisition of territory, but the court held that, the general power to make a treaty being given, it was competent for the President and Senate, by means of that treaty, to acquire foreign territory.

Without going into the details of the authorities upon that subject, to which attention is called in the report, we come to the conclusion that, inasmuch as the Constitution sets no limit to the character of a treaty, it is competent for the President, with the advice and consent of the Senate, to negotiate a treaty which shall provide for submission to an arbitral tribunal of a general class of cases; and that under such a treaty, which then becomes the supreme law of the land, the President has power to submit any particular case to the tribunal referred to in the treaty. We draw special attention to the great Hague Convention. We are glad to have this opportunity of bringing specially to the attention of the Association again the fact that this great convention does provide a supreme international court; a court composed of members as distinct and as ascertained as the Supreme Court of the United States; a court which has a clerk, which has a regular system of procedure, and which is always open for the transaction of business. The object, as we consider it, of a general arbitration treaty is to

[1] 1 Peters 511.

put the United States of America in the position that when a question within the terms of the treaty comes up between this government and another government it should be competent for the President to direct the Attorney-General to make up a statement of our claim and submit it to that court. It seems to us that, on the whole, it is very much in the public interest that such should be the law as between us and other countries. And we call attention to the fact that in the great excitement that prevailed both in England and Russia over the Dogger Bank incident—an incident certainly which was calculated to excite the passions of the English people—provision was already made for a tribunal to which that matter could be at once referred under the provisions of the Hague Convention, and that in that way, without the negotiation of a new treaty, which would hardly have been possible in the excited state of public feeling, the whole matter was settled in a way that has given satisfaction to both nations. That was a great triumph of the principle of international arbitration. We conclude that part of our report by calling attention to the fact that Sir John MacDonald, in his very interesting recent article on the subject, has said that the great international achievement of the nineteenth century is the creation of this international court and the development of a system of international arbitration, which has settled many hundreds of controversies that in former years would have given rise to war, and settled them with as much satisfaction to the litigants as the decisions of our ordinary courts of justice. We know that those are sometimes not entirely satisfactory to the litigants. So, when we hear a certain amount of dissatisfaction expressed at the decision of an arbitral tribunal, we cannot say that it is altogether surprising. That is the report which the committee have made and which we submit for the consideration of the Association; and I move, sir, that it be accepted.

Leonard A. Jones, of Massachusetts:

I second the motion.

Robert D. Benedict, of New York:

Is it understood that the approval of this report is not requested? If it is to carry the weight of the approval of the Association, then I think there will be some discussion.

The President:

The Chair understands the motion to be simply that the report be received and filed.

Everett P. Wheeler:

I perhaps ought to say, in view of Mr. Benedict's remarks, that the by-laws of the Association forbid any action by the Association unless notice has been given to the members in a certain prescribed way. The committee were not able to come to their conclusions in time to get the report printed and distributed fifteen days before this meeting, and therefore we are not able to ask for any affirmative action at this time.

The President:

The question is on receiving and filing the report of the Committee on International Law.

The motion was adopted.

(*See the Report in the Appendix.*)

Henry H. Ingersoll, of Tennessee:

Mr. President, I desire to offer a brief resolution which will not require any discussion. The resolution is as follows:

Resolved, That the American Bar Association hereby expresses its grateful sense of appreciation of the liberal hospitality of the Rhode Island Bar Association in the entertainment enjoyed in the sail upon the waters of Narragansett Bay this afternoon, for which will be cherished pleasant memories by the members of this Association.

P. W. Meldrim, of Georgia:

I second the resolution, and ask that it be adopted by a rising vote.

The resolution was adopted by a rising vote.

Henry H. Ingersoll:

Mr. President, I have another resolution which will take but a moment. I wish to remind the Association that one of

the duties we have taken upon ourselves is the teaching to the rising generation of lawyers a proper system of legal ethics. I think I have heard today one of the clearest, most classic and beautiful expositions of that topic I ever had the pleasure of listening to, and therefore I submit this resolution and move its adoption:

Resolved, That in appreciation of the noble sentiments of the annual address of Mr. Alfred Hemenway, and in furtherance of the duty of the American Bar Association to communicate to the law students of America a faithful expression of legal ethics and lofty professional ideals, the Secretary is hereby authorized by this Association to publish and distribute to the law colleges of the United States for the use of their students 10,000 copies of said address.

A. J. McCrary, of New York:

I think that resolution should properly be referred to the Executive Committee, and I offer a motion to that effect.

Everett P. Wheeler, of New York:

I second the motion.

The motion referring the resolution to the Executive Committee was adopted.

The President:

It gives me very great pleasure now to present the Honorable Richard L. Hand, of the State of New York, the distinguished President of the New York State Bar Association, who will now address us.

Richard L. Hand, of New York:

Mr. President and gentlemen of the American Bar Association: Your kindly reception is very grateful to me as an expression of esteem for the society which I may be presumed in some sense to represent, and I am also very glad of any evidence that the New York State Bar Association, notwithstanding its misfortunes of last January, still has a hold upon your regard.

It is an honor to address this august assemblage of representative and distinguished lawyers from every part of the

United States. I appreciate it as such, and I tender you my thanks for this opportunity. Perhaps I should add that it is a pleasure also, were it not for a certain very disagreeable consciousness that the paper which I am about to present to you, hurriedly prepared in the midst of exacting duties, is little worthy of your attention, and also to an impression derived from my experience as a hearer in this hall, that the presentation of anything from this platform is an exercise somewhat painful both to the speaker and the listeners.

The paper which I am about to read has received a title mainly because the Secretary demanded of me that I should give it one. It is "Government by the People," to the discussion of which I have essayed to impart somewhat of an abstract and philosophic tone; but I wish particularly to emphasize at the outset this title and beg you to bear it in memory, because, otherwise, I fear very much that you would have extreme difficulty in determining what was the subject of the address.

The speaker then read his paper.

(*See the Appendix.*)

The President:

The unfinished business of the morning is now before the Association, and the Chair understands that there was a point of order raised by the gentleman from Missouri to the motion made by the gentleman from New York that the Association adopt the minority report of the Committee on Commercial Law.

Walter S. Logan, of New York:

Since we adjourned this morning, Mr. President and gentlemen, I have conferred with my adversaries and we have entered into a protocol, or perhaps only a truce. We have agreed upon a resolution which, if it is adopted by the Association, will save the Chair a great deal of trouble, though it may perhaps make trouble for his successors. The resolution is as follows:

Resolved, That the recommendations of the minority report of the Committee on Commercial Law for 1904, together with

the recommendations of the supplement thereto for this year, be referred to the Committee on Commercial Law with instructions to report thereon at the next meeting of the Association.

I beg to offer this resolution, which I think overcomes the point of order made, and move its adoption.

Frederick N. Judson, of Missouri:

I second the motion to adopt the resolution. In doing so, I will state that the distinguished Chairman of the committee and the other members of the committee were influenced in their very pacific action by the very bountiful hospitality we have enjoyed today at the hands of our Rhode Island brethren.

George Whitelock, of Maryland:

I think it is only proper that I should add, Mr. President and gentlemen, that neither Mr. Judson nor myself claim any credit for this resolution. Mr. Logan is entirely and wholly responsible for it.

The President:

Is there any discussion upon this resolution?

William A. Ketcham, of Indiana:

I think, sir, there will be considerable discussion on it. This Association, in the year 1903, at Hot Springs, Virginia, recommitted the report of the Committee on Commercial Law with instructions to the committee to report specific remedies in legislative form for any unlawful combinations which might threaten commercial intercourse. That was done after a very bitter attack had been made by a former President of this Association upon the report of the committee. Following that action, the Committee on Commercial Law was recast. It was not packed, but everybody, except its Chairman, who entertained a certain line of view, was taken off and a substitution was made including an honored former President of this Association, and it seemed that those gentlemen who were then placed on the committee were opposed to the doctrine of the committee's report as presented at Hot Springs. Following that, in 1904, the committee divided along lines that might have

been expected, and a majority and a minority report were presented.

Following that, it was resolved by this Association that the majority and minority reports should be received and filed, but that, inasmuch as the reports were not printed and distributed fifteen days before the meeting, their consideration should be postponed until the next annual meeting of the Association, with leave to the majority of the committee to make a majority report, and with leave to the minority of the committee to make a minority report, to amend or to supplement the report, provided that when so amended or supplemented the report should be printed and distributed to members as required by the by-laws. Now I understand that the supplemental report of the minority of the committee has been filed in accordance with the rule, and that the majority of the committee has not filed any amended or supplemental report. So that it now stands that there is before this Association a majority report, the one made at St. Louis, in 1904, with the minority report and a supplemental minority report. Now it is proposed, there having been a partial stifling in 1903, and a little more stifling in 1904, that we should again stifle. I think this Association will make a mistake if it adopts this protocol or truce, or rescission or whatever it may be termed. If this Association wants to deal with this question, let it deal with it. Let us meet it fairly. We have heard this morning a most glowing eulogy, truthful and appropriate, of the Bar and of the profession. This is the great lawyers' association of America. It ought not to be afraid to meet this question. It ought not to evade the issue. It evaded it in 1903, it evaded it again in 1904, and now here is a truce that says evade it in 1905. And what will happen in 1906 the Lord only knows if the committee should happen to be again recast upon different lines! I think this Association would do itself more credit if it should disregard this truce and pass upon the merits of these two reports. Let the gentlemen of the majority of the committee maintain their

position, and let the gentleman who constitutes the minority of the committee maintain his position. Then let this Association consider what, if anything, it desires to do. But do not let us run away from this spook. Let us stand up and meet it like men and express our views and decide what we think ought to be done.

John Morris, of Indiana:

I heartily endorse the sentiments expressed by my colleague from Indiana; and for the mere purpose of bringing the matter properly before the Association, I move as an amendment to the pending motion the following:

Resolved, That the recommendation of the minority report of the Committee on Commercial Law with reference to the amendment of the Act of Congress, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," passed July 2, 1890, be approved.

The adoption of this resolution would not amount to an approval or disapproval of the language of any of the reports. I wish to say that I presented the resolution at St. Louis, for the postponement of the consideration of this matter until this year. I did it at that time because the majority and minority reports of the committee had not been published and circulated, as required by our by-laws, in time for the members to become acquainted with them, and for the further reason that, on that occasion, we had a great many other things to occupy our attention. I think, we ought now to settle the question one way or the other.

William Hepburn Russell, of New York:

In rising this morning to second the adoption of the supplemental report of the Chairman of the committee, I did so with a great deal of hesitation, because my membership in this Association is so recent that, with the native modesty for which we who are natives of the State of Missouri have long been celebrated, I was under the impression that if I did more than merely to second what seemed to me to be a proposition that this Association ought to pass upon I would perhaps be tres-

passing upon the patience of the house. But the distinguished gentleman from Indiana, Mr. Ketcham, has so clearly put the case that it seems to me that right now is a good time for this Association—new members as well as old—to put themselves on record as to whether or not they favor some additional legislation by Congress for the purpose of controlling and regulating a certain class of combinations of capital. I have been for many years a corporation lawyer; I have dealt with many questions of corporation law, but I see no reason—speaking from a corporation lawyer's standpoint—to fear an amendment to the Sherman Act, the only effect of which would be to put into that act in explicit language what, prior to some of the decisions of the courts, nearly every lawyer in the United States believed to be the fair implication of the language of the act itself. This report, with the suggestion of the new amendment that is made therein, adds only to the seventh section of the Sherman Act language providing that where an offense has been committed which is intended to be covered by that section, a party may appeal to courts of equity for injunctions and for equitable relief as well as for the specific penalty provided in the act itself. What is there that should make the majority of this committee afraid to meet that issue before this body of men, representing the intelligence and clear-sighted sense of the American Bar? Why should we not be a jury of lawyers to pass upon that question here and now? It occurs to me, Mr. President, that it is not the part of courage, that it is not the disposition of the sort of lawyers Mr. Hemenway talked about this morning, to dodge an issue of this kind and put it off upon the shoulders of our successors at a subsequent meeting of the Association. This is one of the vital issues of the hour in American law, in American politics and in American legislation. That being so, I respectfully submit that the resolution presented by the Chairman of the committee should either be withdrawn or voted down, and that we should here and now determine the question upon the majority report or the substitution for it of the minority report.

The President:

The question before the house is on the amendment of the gentleman from Indiana (Mr. Morris) to the original resolution offered by the gentleman from New York.

The resolution was read again by the Secretary.

Fabius H. Busbee, of North Carolina:

The effect of the adoption of that will be to substitute the second resolution for the first, and then the entire subject will be opened up for discussion.

George Whitelock, of Maryland:

Oh, no, not at all. The effect of adopting this resolution will be to approve the minority report.

Fabius H. Busbee:

The first motion, as I understand it, was in the nature of a motion to refer by the gentleman from New York. Then a motion was made to adopt a substitute, which is an amendment, and if that amendment is adopted, the question will then be upon the original motion as amended. That is the usual parliamentary procedure. That will throw the question open for discussion.

The President:

Does not that depend upon the character of the motion made by the gentleman from Indiana?

Fabius H. Busbee:

His resolution is really in the nature of a substitute for the motion made by the gentleman from New York, and I would ask the Chair whether, under that resolution, if it passes, the entire subject is not opened up for debate.

Moorfield Storey, of Massachusetts:

A motion has been made to substitute one motion for another, as I understand it, Mr. President. Therefore, the first question will be, Shall it be substituted? If that motion prevails, then the question will arise as to whether or not the substituted motion shall pass.

George E. Price, of West Virginia:

I think if the Secretary reads that resolution again, and we listen to its language carefully, it will be perceived that if it shall be adopted it will approve of the minority report so far as it relates to the amendment of the Act of Congress.

Fabius H. Busbee:

That could not be so, because it is an amendment to the pending motion; otherwise it would not be in order.

George E. Price:

The gentleman from North Carolina is in error in assuming that a substitute is a simple amendment. It is not. When a proposition is adopted as a substitute for another proposition, the substitute so adopted becomes the action of the body. Therefore, if we adopt this resolution offered by the gentleman from Indiana, we approve of the amendment of section 7 of the Sherman Act.

The resolution was read again by the Secretary.

Moorfield Storey:

That is not a resolution that comes before the house for the first time. The motion is that that resolution, which has just been read by the Secretary, shall be substituted for another resolution that is before the house. If there is now a pending resolution, there is no way of bringing it before the house except by amendment or substitution; and the question is, first, whether the house will allow the pending motion that has been received to be replaced by this other one; then, if that motion prevails, the question will be as to whether the substituted motion shall pass.

George E. Price:

Suppose it is moved as amendment?

Moorfield Storey:

The same thing would be true then. The question is first, Shall the amendment be substituted?

James D. Andrews, of New York:

I ask for the reading of the resolution again in order that we may get the language of it correctly and consider the action which it will be necessary to take upon it.

The President:

The gentleman from New York asks that the original resolution and the amendment, or the substitute therefor, as the case may be, shall be read. The Chair asks that the house attend to the reading of these resolutions.

The Secretary: (Reading.)

Resolved, That the recommendations of the minority report of the Committee on Commercial Law for 1904, together with the recommendations of the supplement thereto for this year, be referred to the Committee on Commercial Law with instructions to report thereon at the next meeting of the Association.

That is the resolution offered by Mr. Logan. Then Mr. Morris, of Indiana, offered the following:

Resolved, That the recommendation of the minority report of the Committee on Commercial Law, with reference to the amendment of the Act of Congress entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," passed July 2, 1890, be approved.

James D. Andrews:

The only significance of the little deliberation which we are now having is that we shall not vote mistakenly, but may vote understandingly. I think the explanation offered by Mr. Storey is obviously the true one. If it is not, we ought to agree that our vote shall not be considered as an approval of the minority report when we understand that we are simply voting merely upon the question of substituting one resolution for another.

Lynde Harrison, of Connecticut:

It seems to me that we can settle very easily the discussion as to whether this is an amendment or a substitute. What is called a substitute is equivalent, in any deliberative mind, to amending by striking out all after the word "resolved" in

the resolution offered by the gentleman from New York and substituting the wording of the other resolution. Now all the members of the Association, it seems to me, who believe that in addition to the language in section 7 of the act, which confers upon Congress the power to give judgments at law under such circumstances, authority shall also be given to any person to bring a suit in equity for an injunction to restrain any corporation or person from doing anything that is declared to be unlawful, and are in favor of having the so-called Sherman Act of 1890 amended by adding those words can vote "yes" upon this substitute or amendment, whichever you choose to call it, and if the majority vote yes, then they will immediately vote yes to pass the resolution as amended. That is all there is to it.

Robert S. Taylor, of Indiana:

It seems to me that some confusion has arisen from the fact that the gentleman from Indiana did not put his whole motion in writing. We have had it read repeatedly, but not yet has there been read his real motion, as I apprehend, which is that the pending resolution be amended by a substitute.

George E. Price:

That is it precisely.

Robert S. Taylor:

The carrying of that motion simply puts one resolution in place of the other. Then the amended resolution will be up for the consideration of the house.

George Whitelock, of Maryland:

If the Chair will so rule, that will settle it. Then we will know where we stand on the discussion of the merits of the question.

The President:

The Chair is ready to rule on the question. As the Chair understands it, the motion of the gentleman from Indiana was a motion to substitute the resolution which he offered for the pending resolution offered by the gentleman from New York.

In the opinion of the Chair, if that motion prevails, it will result simply in having the resolution of the gentleman from Indiana before the house instead of the resolution of the gentleman from New York. The question is upon the substitution of the resolution offered by the gentleman from Indiana in place of the resolution offered by the gentleman from New York.

Lucien H. Alexander, of Pennsylvania:

If the gentleman from Indiana will temporarily withdraw his substitute, I will move to lay on the table the so-called protocol.

Ernest T. Florance, of Louisiana:

I do not think the members here desire to go through the idle form of adopting a substitute and then immediately revoking the substance of that substitute, as suggested by the gentleman from Indiana. The whole matter can be easily solved by striking out of the original resolution everything after the word "resolved," and adopting the wording of the substitute.

The President:

The Chair will put the question.

The question was put, and was determined in the affirmative.

The President:

The substitute of the gentleman from Indiana is now before the house.

Walter S. Logan, of New York:

Mr. President—

William A. Ketcham, of Indiana:

I would rather talk myself on this question than listen to a man who has run away from the question.

Walter S. Logan:

I yield the floor to the gentleman from Indiana.

William A. Ketcham:

We heard this morning, as we hear every time when a lot of lawyers come together, what a magnificent lot of men we

are, how wise we are, how we have kept alive the glimmering spark of liberty through all the ages, and have fanned it into that fire that lights the world. It is customary to do that, you know, in any meeting of lawyers; and we believe it, for it is true. But it is not necessary to be always alluding to it and then when we are put to the test of the courage of our convictions to run away. I think we ought to meet this question fairly and squarely. Now what is the question? The Congress of the United States has said, and the people of the United States have approved nothing that has been done by Congress more than they have approved that, that certain things are unlawful, and, by way of punishment in an action at law, damages shall be recovered. That is so wise and so prudent a provision of law that great lawyers of this nation and of this Association, who have had committed to their care great public questions and great public interests have withdrawn, and properly withdrawn, from the consideration of great questions because there was an effort to hamper and restrict them in the performance of a high public duty, and the people of this country have approved their wise action in that behalf. Now, conceding that it is unlawful to enter into combinations against the trade and commerce of the country, we were advised, as I am informed by this minority report—and I assume it is true until I hear to the contrary, I do not recall the language exactly of the majority report—that the majority of the committee said in 1904: "The committee do not understand that a person so specially injured by unlawful combinations will not be protected by a court of equity if irreparable injury or other conditions to the exercise of equity jurisprudence exist." Mark you, the committee did not say "we *do* understand." It said "we do not understand." This Association is not particularly to be influenced or enlightened by what somebody does not understand. It is what they do understand. If it be true that these associations and combinations are unlawful—so much so that in an action at law there is the absolute right to maintain an action for damages and

treble damages—is it not important that there should be no question, even if a majority of the committee lacks understanding on that subject, that a court of equity should have this jurisdiction conferred upon it, and not have to wait until the door is open and the horse stolen and a man's business injured and a suit for treble damages is brought by his trustee in bankruptcy? Let him go into court and say: "Here are these unlawful acts threatened, and I ask this court to lay its hand upon these parties and say to them that they shall not do this unlawful act to my prejudice." That is all that is proposed by this amendmant to the Sherman Act—to give a man not only his action at law for treble damages, punitive damages, penal legislation of the highest character, but to give him direct and speedy redress through the court's laying its hand upon the party that is threatening to violate the law, and saying, stop! I think the members of the American Bar Association ought to resolve that in their judgment it is the duty of Congress to give to the courts the power to say stop.

George Whitelock, of Maryland:

I think it appropriate to remind the Association of the report submitted last year on behalf of the majority of the committee in St. Louis, in order that the position of the majority may be fully understood before final action upon the resolution now pending. The subject was recommitted in 1903 by this resolution:

Resolved, That the part of the report of the Committee on Commercial Law relating to modern commercial combinations be recommitted to the committee for the ensuing year, and that said committee be instructed to report specific remedies in legislative form for any unlawful combinations which may threaten commercial intercourse."

The matter was thereafter considered by the whole committee, and they had before them the text of the Act of Congress of 1890, which provides in section 7 as follows:

"Any person who shall be injured in his business or property by any other person or corporation, by reason of anything

forbidden or declared to be unlawful by this act, may sue therefor in any Circuit Court of the United States for the district in which the defendant resides or is found, without respect to the amount in controversy, and shall recover threefold the damages by him sustained and costs of suit, including a reasonable attorney's fee."

This is the pertinent part of the act, and I shall now state the conclusions of the majority of the committee as to the desirability of amending that act by providing additional remedies:

"Congress has by recent legislation (Act of February 11, 1903) provided what the Supreme Court has held since the last meeting of the Association to be a prompt and efficient procedure on behalf of the government against illegal commercial combinations. It is true that this summary remedy is not available for private litigants. The committee realize the importance of securing to every suitor speedy and certain redress for every wrong, and of providing in every practicable way for the simplification of our remedial procedure. The committee are not satisfied, however, that there is at present any emergency calling for the extension to private actions of this summary remedy provided for suits by the government against illegal combinations. It is, as a rule, the interest of the public rather than the interest of any private individual capable of redress in private action which is threatened by the combinations now adjudged to be unlawful obstructions to commerce. The committee are, therefore, of opinion that until the existing remedies recently provided by law for the protection of commerce against illegal combinations are further invoked, and their efficiency further tested, it is not necessary to propound additional legislation extending the summary procedure. It is now provided by the Anti-Trust Act of Congress (section 7) that a party especially injured in his property or business by unlawful combinations may recover treble damages as well as reasonable attorney's fees."

I am sorry that the learned gentleman from Indiana is not satisfied with this provision. He can understand, I suppose, that it was rather more polite to state it in that way, in view of the differences of opinion in the committee. I think I may go to the point of saying, with Mr. Judson's concurrence, that

the committee do understand that a party specially injured has a right to invoke the aid of a court of equity if irreparable injury or other conditions to the exercise of equity jurisdiction exist.

The report further says:

"If it should be decided that the general jurisdiction of a court of equity, as distinguished from the summary jurisdiction under the act, does not extend to such cases of private litigants suffering special injury from unlawful combinations, the committee would recommend legislation conferring the requisite jurisdiction; but the committee are not satisfied that there is any present necessity for such legislation."

That report was signed by Senator Manderson and Mr. Hensel, both of whom are now in Europe, and by Mr. Judson and myself, and I have stated the contents of the report so that the Association may know what the committee laid before the meeting last year at St. Louis.

Here is the difference between us. Mr. Logan, in his minority report, now advocates an amendment of the Act of Congress so as to confer this special equity jurisdiction in private actions upon the courts of the United States. The majority of the committee are not in favor of such move. There has been no demand for it. We have heard of no injustice under the present state of the law. In the opinion of the majority, there is already a sufficient remedy: First, the remedy by common law actions under the Act of Congress. Secondly, by a resort to a court of equity in the exercise of its general equitable jurisdiction and apart from any congressional legislation. Until there is some demand for the amendment, by reason of a miscarriage of justice, the majority of the committee do not believe that any congressional action is necessary.

Frederick N. Judson, of Missouri:

When lawyers are asked to give their endorsement to an amendment of federal legislation, they ought to understand clearly the scope and exact effect of the proposed amendment.

If the majority of the committee had believed, as stated by the gentleman from Indiana, that under the present law a man who was threatened with irreparable injury to his business by any illegal combination, either of labor or of capital, did not have a right to appeal to a court of equity for redress and protection, we would have heartily joined the minority of the committee in recommending the amendment. Hence, what I say is this: We ought to understand that the Sherman law did not create the right of the citizen to have protection against an illegal combination, but it gave remedies for the enforcement of that right and gave the public certain remedies. If there had been no Sherman law at all, the citizen would have had the right to appeal to the courts of the country for protection against illegal combinations, whether of labor or of capital, and the state and federal courts have exercised and are exercising that jurisdiction irrespective of the Sherman Act. What is the effect of this amendment? Its only practical effect—and that gentlemen must clearly understand when they vote upon it—will be to give a very large and important addition to the jurisdiction of the federal courts as against the state courts. Why is that? Turn to section 7 of the Sherman Anti-Trust Act, because, I assume in passing, as every lawyer will understand, that unless you can go into the federal court on the ground of a federal question you must have the test of citizenship for your jurisdiction. Let me illustrate. A manufacturing corporation comes to you and says, We want protection against a labor organization which is interrupting our business. You say to the corporation, If the defendants are citizens of the same state, we will go into the state courts. If the parties, however, are residents of different states, then, of course, you have a right to go into the federal court. If you have a federal question raised or a federal right raised in the litigation, and it is decided against you, of course you can appeal by writ of error to the Supreme Court of the United States. But here is the important point: In that large class of cases, and the dockets of the state courts in the country

today are full of them, suits of employers against employees, or suits for relief against alleged illegal combinations, they are being tried on the equity side of the court in the state courts as well as in the federal courts in cases where there is a difference of citizenship. The American Bar Association proposes now to tell Congress we are not satisfied with this, but we want to give that class of jurisdiction in all cases to the federal courts of the country and take it away from the state courts. How? By this very language of the amendment, irrespective of the amount involved and irrespective also of the question of citizenship, you are creating a statutory jurisdiction in the federal courts precisely as under the Interstate Commerce Act. The act, section 7, says:

"Any person who shall be injured in his business or property by any other person or corporation, by reason of anything forbidden or declared to be unlawful by this act, may sue therefor in any Circuit Court of the United States in the district in which the defendant resides or is found."

And then it provides that he shall recover threefold the damages sustained and costs of the suit, including a reasonable attorney's fee. Now here comes in the new matter: "Or such person may bring suit in equity" in the Circuit Court of the United States without regard to the amount in controversy, etc.

Here are the two positions of the committee. We have investigated this subject to the best of our ability, and we regret very much our inability to agree with our associate. In the first place, we take the position that the right of protection is not created by the Sherman Act, but that it exists at common law and the courts of the land are at all times open to enforce it. We do not think that any public exigency exists for giving a statutory jurisdiction to the federal courts regardless of citizenship and regardless of the amount in controversy in this very important class of litigation, which strikes so nearly at the property interests and sometimes at the prejudices of our people. We think that in such a matter as this the Ameri-

can Bar Association should move very cautiously. If the Association believes that a public exigency exists demanding this very large increase in the jurisdiction of the federal courts, particularly in the matter of the granting of injunctions, the majority of the committee will bow to the superior judgment of the Association, but we most respectfully submit that such an exigency does not exist.

Walter S. Logan, of New York:

I will try not to run away from this subject, as the gentleman from Indiana (Mr. Ketcham) intimated I had. It was charged this morning that the majority of the committee had not had a sufficient opportunity to consider the bill in its present form, and in view of that charge I was willing to have the matter postponed for a year in order that they might have ample opportunity to examine the bill, and to agree with me if they desired to do so after fully considering the provisions of the bill in its present form. However, the Association has decided that the matter shall be settled now. If it is to be settled now, I wish to say that I am earnestly and determinedly in favor of the amendment proposed in the report of the minority of the committee. I believe that in passing that legislation Congress would be doing God's holy work. I believe that this Association in recommending it to Congress will be performing one of its highest duties and exercising one of its highest privileges.

I think Mr. Judson is entirely mistaken in the proposition that the Sherman law gives no new rights. It gives a multitude of new rights to the citizen. There were some monopolies, some combinations that were illegal before the Sherman Act, but there is a vast increase in the number that are illegal today under the Sherman Act. As to the monopolies and combinations that were illegal before the Sherman Act, the citizen was protected against those by his right to sue out an injunction in a court of equity. As to the combinations made illegal by the Sherman Act there is no remedy that a citizen can get under this act, and this amendment is necessary in order to enforce

the rights of the citizen. The Sherman Act as it stands today offers the citizen bread, but gives him a stone. It provides that he has certain rights, but the remedy for the enforcement of those rights it withholds from him. I say that the remedy should be as broad as the right. It is not increasing generally the jurisdiction of the federal court, as Mr. Judson would have you think; it is only increasing the jurisdiction of the court as far as the rights have been increased; it is providing that where by the Sherman Act a citizen is given a right he may, if need be, go into a court of equity to enforce it.

Now, sir, as we are to vote upon this question tonight—and I am entirely willing to vote on it tonight—I hope the American Bar Association will join with me in extending to the citizen the privilege of enforcing the rights which the law gives him in all the tribunals which he has the right to enter, and that he shall have the same right to proceed in a court of equity to obtain redress for a violation of his rights under the Sherman Act that he has to apply for redress for a violation of his rights under the patent laws of the country.

I hope, gentlemen, that the resolution of the gentleman from Indiana, my old friend on the committee with whom I have fought so long shoulder to shoulder, will pass.

Frederick N. Judson:

Will it not follow that in any suit under this act where the complainant alleges that the defendant combination exists in violation of the Sherman Act the federal court will have jurisdiction irrespective of citizenship and irrespective of the amount in controversy?

Walter S. Logan:

Yes, sir; wherever it is a right which is given to the citizen by federal statutes he will have the remedy of suing out an injunction in the federal courts.

Fabius H. Busbee, of North Carolina:

I am sure that everyone present will unite with me in the expression of relief that the gentleman from New York, the

sponsor of the report, has, in football parlance, gotten the ball again away from the gentleman from Indiana, and that the resolution is at last in the hands of Mr. Logan. It would seem also that gentlemen who have been in the habit of attending political conventions have an opportunity of revising the platform which, in 1896 and again in 1900, condemned "government by injunction." This is a distinct and deliberate effort to put the American Bar on record to the effect that the position which the country condemned in 1896 and 1900 was right, and that government by injunction shall be put forth as the platform of this Association. Because, gentlemen, while all the argument has been addressed to the oppressive unlawful combinations of capital, if there is any force in the language used in the minority report, it certainly can be held to justify injunctions against any and all bodies of strikers engaged in combinations deemed to be unlawful. It puts the federal courts in absolute control, independently of the amount in controversy and independently of the citizenship of the parties, and in the effort to strike at unlawful combinations of capital it vests the federal courts with full power to enjoin any labor combination which is thought unlawful. Again, while it may be, and ought to be, honestly used, it puts into the hands of any lawyer an opportunity to blackmail every aggregated form of capital that can be charged with being a trust. It would be a most potent instrument in the hands of a weak judge or an agitating lawyer. Why, it is the easiest thing in the world to condemn trusts. The language of vituperation flows freely from the lips of many people in this country, and when one is not speaking before a court and to the facts, but is speaking generally, one can say easily: "Let us give any individual who thinks himself aggrieved the power to sue out an injunction without any limitation." I do not think such a statute will pass, but you have placed the American Bar, in a wave of enthusiasm, in advocacy of a doctrine which may be pregnant with very grave danger. It is not correct to say that this question was before the meeting in 1903. Members of the

Association will remember that the report of the committee at that time had nothing to do with the present subject. That report was not at all analogous or germane to this question. It is unjust to say that the distinguished gentleman from New York is the only member who was a member in 1903 favoring the report from the committee. The member evidently forgot the distinguished gentleman from Maryland, Mr. Whitelock, who was on the committee in 1903, and who now differs widely from the Chairman in his views. And the gentleman from Missouri, Mr. Judson, in 1903 received the endorsement of the Association in the adoption of his motion. This question was not before the Association; and we had a different proposition which seems now to be buried. We have reports, majority and minority, which were presented to the Association at its meeting in 1904, but not in accordance with the rules, and therefore we had no right to consider them. So the reports are up now for the first time, and we are asked in a burst of enthusiasm to endorse language which may be pregnant with difficulties. No lawyer ought to hesitate for moment to endorse the most stringent legislation which could be aimed at restricting the power of the colossal combinations of capital, but when we are attempting to do that let us have our language carefully worded. Let us not, after the expenditure of all our rhetoric, reinstate government by injunction, for that is what it really is, which may be made an engine of oppression to labor as well as to capital.

William Hepburn Russell, of New York:

The suggestion of the gentleman from North Carolina that we are doing anything here by sentiment or that we are doing this in a wave of enthusiasm seems to me entirely apart from the practical phase of the discussion. So far as the proposition that this is government by injunction is concerned, I can say that we need not trouble about that. This is not a political question. I believe that the time has come when, a right having been granted by a congressional act, the Sherman law, and not having been extended to the point where the federal

courts have equity jurisdiction to apply remedies that are necessary to the complete enforcement of that right, I believe that this Association ought not to favor "government by injunction," nor to oppose "government by injunction," but ought to do a very simple and a very lawyer-like thing. Mr. Judson has made, very nicely I think, a distinction between the jurisdiction in equity and the jurisdiction of the federal courts under the Sherman Act where this equity arises, but he has omitted one very pertinent proposition. Mr. Judson will not contend that the state courts have equitable jurisdiction to enforce the remedies that are granted by the Sherman Act. He will not claim that the federal courts have equitable jurisdiction apart from the express provisions of the Sherman Act to enforce these remedies. Therefore, between the upper and the nether millstone the innocent citizen who may have rights that are provided for and created by the Sherman Act is left without an equitable remedy. He cannot appeal to the state courts under that act, because the state courts have not jurisdiction to enforce its provisions. On the other hand, he cannot go into the federal courts, because here is an act which in express terms grants a remedy *after an injury*, and say, I want an equitable remedy enforced *before the injury*. There is no question of politics in this; there is no question of government by injunction, but the question is simply and solely whether the American Bar Association stands ready to say that it thinks the Congress of the United States ought to extend the provisions of this remedial statute so as to give equitable as well as legal remedies under its provisions. Equitable remedies in the federal courts by express addition to the Sherman Act seem to me wise, desirable and necessary, if the act is really to be effective to protect the citizen and prevent wrongs which mere legal remedies are inadequate to redress.

Theodore P. Davis, of Indiana:

I only want to say a word on this subject, and it has been brought out by the suggestion made by Mr. Judson. In the very eloquent remarks he made, he did not take occasion to

condemn the Sherman Act or to point out that the remedy it gives is not a right remedy. The act and remedy, so far as they go, have been approved by the people of the country unanimously. We have not heard any dissent to it from any lawyer or from any newspaper that a suitor now has the right to go into the federal court to enforce his claim to damages. If it is true that it is right that the federal court shall have jurisdiction to award damages after an injury has been sustained, why in the name of common sense should not the federal court have full and complete jurisdiction to give a full and adequate remedy and to prevent before injury the doing of the act? This morning we listened to an address in which the speaker took occasion to point out that the great beauty of equity jurisdiction was that it offered an adequate remedy to the citizen before the injury had taken place. In the light of that address, and in the light of common sense, it seems to me, it certainly would be a reflection upon this Association if we should go hence recording our approval of the fact that an injured party may go into court and secure damages after he has been ruined, and yet say that we will not give that court the power when a proper case is presented to lay its restraining hand against the doing of the evil. The gentleman from North Carolina is very much alarmed that a suitor will get before a judge without sense and secure a right to which he is not entitled. I take it for granted that before this great remedy is granted a suitor will have to present a case; he will have to convince the chancellor that a case exists for granting the remedy, and I also take it for granted that we will have no federal judge who unwittingly or unreasonably will grant this remedy.

Charles Claflin Allen, of Missouri:

My natural predilections and the point of view I have always entertained and expressed, both in public and private, upon the general subject here involved are such that I should like very much to vote for this or any other resolution which has a tendency to impair the power of the trusts. I came into this hall

doubtful how I should vote, not being fully informed upon the situation. I have sat here rather expecting when it came to voting to vote in favor of the resolution. But in view of the argument to which I have listened, and especially in view of certain suggestions made by Mr. Judson, there has come to me a further doubt, to say the least, and it amounts almost to a conviction. It is this: If you pass this resolution and if Congress follows it, are you not vesting in the United States courts sole and exclusive jurisdiction in all classes of cases in which an interstate commerce question arises? The United States Supreme Court held in the Debs case[1] that it was unnecessary to consider the Act of July 2, 1890, known as the Sherman Act, which had been invoked in the Chicago cases, because it was enough for the court to have jurisdiction upon the broad principles of equity jurisprudence. In several cases it has been held by the Supreme Court of the United States—and I remember especially the case of Leisy *vs.* Hardin,[2] known as the original package case—that, when Congress once spoke upon the question of interstate commerce, and took charge of any question involved in the power of Congress under this interstate commerce clause of the Constitution, the jurisdiction of Congress and of the federal courts thereunder became sole and exclusive. I am speaking quite on the spur of the moment, and I do not remember all of the authorities, but Judge Dickinson, of Chicago, with whom I conferred a moment ago, bears me out in my recollection that there are authorities, and he mentioned to me cases upon the subject. I spoke to him because I had some hesitation whether to present this proposition, but it is so strong in my mind at this time that it illustrates once more the fact that, however much the American Bar Association should take courage to do its duty, and never shrink or flinch from that duty, it should never put itself on record upon a question involving the rights or remedies of the people of the country

[1] 158 U. S. 564.

[2] 135 U. S. 100.

until it is sure of its position. And I submit, sir, that the development of this great question of the control of industrial combinations progresses with such infinitesimal differences of distinction between the different forms of combinations; the doubts and uncertainties that attach to all laws created by hasty legislation are so great that no act should be approved which has not received the close scrutiny of every thoughtful man who has a duty to perform in connection with it. No man and no set of men can settle the trust question all in a moment, nor by one act. It is a great political and economic problem that is staring us in the face day by day, and we must proceed step by step, and most cautiously; and I submit, sir, that it would be better to have this question recommitted year after year, for ten years if need be, until we have thoroughly mastered it and solved the problem rightly, than to go on record hastily or in a perfunctory way on a question which is of such vast importance and about which we are supposed to speak, when we do speak, wisely and thoughtfully.

A. J. McCrary, of New York:

Mr. President and gentlemen of the American Bar Association: If there were no other reasons than those stated in the arguments here tonight why this resolution should not be adopted, it certainly is very clear to those who reflect upon it that it should not after this discussion. In the first place, this Association necessarily acts through its committees. It cannot wisely act in any other way. We have committed this matter to a very able committee; I undertake to say that five stronger men could scarcely be selected from this Association. Four of the members of that committee come before this Association with a report declaring, as has been very clearly explained by the gentleman from Missouri, that they have investigated this matter and they do not believe there are now present reasons why this law should be immediately changed or that this Association should now commit itself to a recommendation to make the changes called for by the minority member of the committee. I want to put myself upon record as declaring that I am

not willing here in one hour to do that which Congress would probably spend weeks upon, especially in view of the fact that we have a committee which declares four to one that there is no necessity for this amendment. Shall this body of lawyers, wise as the gentleman from Indiana says we are, and he echoes the unanimous verdict, for we are a wise body, shall we, even if as wise as he thinks we are, assume that we can do in one hour what it would take the Congress of the United States weeks to do intelligently? No, gentlemen, the majority report, in my judgment, should be now adopted by this Association.

George Whitelock, of Maryland:

No more serious proposition has ever been submitted to the American Bar Association. I want to say one word only. The last speaker called attention to the fact that four members out of a committee of five had reported this general proposition unfavorably. I wish to remind you of another fact. The technical point was raised this morning, but Mr. Judson has withdrawn it, I believe, that the precise text of the proposed amendment to the Act of Congress was never even submitted to the four majority members of the committee. Yet the Association is, by the minority report, asked to recommend to the Congress of the United States the passage of an amendment to the law which has never been considered by the committee of this body supposed to have had the matter under consideration. Now, there is no haste about the question. If it is important, Congress will act. If it is urgent, this body will have an opportunity to be heard and to make a recommendation in 1906, or in 1907, or, if not then, in some later year; and I think we should all agree with my learned friend, Mr. Charles Claflin Allen, of Missouri, who has made a magnificent presentation of the question before you, that it is better that the subject be recommitted year after year, for ten years if necessary, than that the Association now go on record hastily recommending a particular action to Congress which has not even been considered by its entire committee.

I can hardly add more to all that has been said, but I agree with the assertion that there are some of our ablest members on the committee. Unfortunately, two of them are in Europe, and are not able now to speak for themselves. I trust that the resolution will not pass.

Andrew A. Bruce, of North Dakota:

I should like to ask for information a single question. Mr. Allen made a strong presentation of the point that this amendment would give to Congress the exclusive control of these classes of matters in interstate commerce, and he said that if Congress once spoke on the subject, then it would assume exclusive control. Now, the question I want to ask is this: Under the original Sherman Act, is it, or is it not, the fact that the act already provides that threefold damages can be recovered; and, if that is so, is it not the fact that Congress has already spoken, and, if Mr. Allen's point is true, Congress already has exclusive control?

Frank Harvey Field, of New York:

Mr. President, I rise for information. Does not the form of the present resolution approve of the minority report?

The President:

The Chair so understands.

Frank Harvey Field:

If it does approve the minority report, then the minority report approves of the recommendation to Congress of these two propositions: First, the proposition in regard to the Sherman law; and, secondly, a proposition in regard to the taxation of corporations engaged in interstate commerce, as shown on the third page of the report where the minority member of the committee says, "I am still firmly of the opinion that these two remedies would be beneficent legislation and should be recommended to Congress by the American Bar Association."

The President:

I think the gentleman from New York is mistaken as to the form of the resolution. I will ask the Secretary to read it once more.

The resolution was again read by the Secretary.

Frank Harvey Field:

I have not yet heard any ruling by the Chair upon the objection made by Mr. Judson this morning that the rule of the Constitution has not been observed, which provides for the consideration by the entire committee of the precise question now before the Association. I desire to have a ruling upon that, because I read on the third page of the report that the proposed amendment to section 7 of the Sherman Act was not proposed as an amendment to the Sherman law at all last year, but that the minority member of the committee now proposes it as an amendment to the Sherman law. Nor was the wording of the proposition before the committee in its report last year. So that we have an entirely new proposition differently worded, and it is now proposed to recommend this as an amendment to the Sherman law, which is one of the most important acts on the statute books.

The President:

The Chair rules that the question before the house is the resolution which has just been read by the Secretary.

Frank Harvey Field:

Then I rise to a point of order. It is that the proposition before the house, not having been considered by the entire committee in its present form in accordance with the by-laws of the Association, cannot now be passed upon by this body.

William Hepburn Russell, of New York:

I rise to the point of order that the point of order made by the gentleman who has last spoken is not well taken, because the resolution offered by the gentleman from Indiana is, in effect, an amendment of the majority report, and the house has so ordered by the action which has been taken.

George E. Price, of West Virginia:

If that is the fact, then the point of order should have been made before that resolution was adopted.

The President:

The language of the rule is that "no legislation shall be recommended or approved except upon the report of a committee." The language set forth in this resolution is part of the language incorporated in a minority report of this body. The Chair rules that the language in a minority report is part of the report of a committee, and that, although there is only one member constituting the minority of the committee, nevertheless the minority report is part of the report of the committee and has, therefore, been considered by the committee. Accordingly, the Chair overrules the point of order and holds that the resolution is in order before the house and is now to be voted upon.

Frank Harvey Field:

That is, the Chair holds that the minority report handed up by one member of a committee, without ever having been submitted to the other members of the committee, is entitled to be considered as having been considered by the committee?

The President:

The Chair cannot undertake to decide moot questions. The decision of the Chair already announced stands unless it is appealed from.

Edmund Wetmore, of New York:

I would call attention to the fact that under this amendment, as I understand it, any defendant who may be served with process, for example, in a sleeping car one thousand miles away from his home where his witnesses and his means of defense may be located, is called upon to defend a suit in a distant jurisdiction.

William A. Ketcham, of Indiana:

I ask Mr. Wetmore whether that same objection would not apply to a punitive action for treble damages?

Edmund Wetmore:

I think not.

William A. Ketcham:

I think it would.

The reading of the resolution was called for and it was read again by the Secretary.

Edward Q. Keasbey, of New Jersey:

In answer to the question asked by Mr. Ketcham of Mr. Wetmore respecting an action for punitive damages being brought in that same way, I would state that that would not be so because the federal statutes expressly provide that no action shall be brought of that kind in the circuit courts except in the district wherein the defendant has his residence.

The question was then put upon the resolution and the result being in doubt a division was ordered.

The President:

The Chair and the Secretary are in doubt as to the count, and, in order to avoid confusion, the Chair would, if there is no objection, appoint tellers to count the vote.

The vote was then taken by Walter S. Logan and Frederick N. Judson as tellers, and they reported sixty-eight votes in the affirmative and seventy votes in the negative.

The President:

The report of the tellers is as follows: Ayes, 68; noes, 70. The resolution is therefore lost.

Edward B. Whitney, of New York:

Mr. President, I am one of those who voted against this resolution, but I want the committee to have a full and fair opportunity to consider the minority report, and I therefore move to reconsider the vote just taken; then, if it is reconsidered, that the subject matter be postponed until the next meeting of the Association in 1906.

Walter S. Logan, of New York:

I second that motion.

J. M. Dickinson, of Illinois:

I move to lay the motion of the gentleman from New York on the table.

George Whitelock, of Maryland:

I second that motion.

The motion to reconsider was laid on the table.

The Association then adjourned until Friday, August 25, 1905, at 10 A. M.

Third Day.

Friday, August 25, 1905, 10 A. M.

The President:

The Association is aware that a special order has been set for this morning, but before we take it up I would ask the indulgence of the house in order to dispose of some business, which will take only a few moments.

Ferdinand Shack, of New York:

As Chairman of the Special Committee on Title to Real Estate, I have a very brief report that I should like to present at this time. It requires no action, and is simply a report for the information of the Association.

(*See the Report in the Appendix.*)

Ferdinand Shack:

This report is signed by all the members of the committee except Mr. Ewing, who is not present, and I move that the report be received and filed and the committee continued.

Walter S. Logan, of New York:

I second the motion.

The motion was adopted.

William A. Ketcham, of Indiana:

Would it be in order at this time to present the report of the Auditing Committee?

The President:

Yes, sir.

William A. Ketcham:

Then, sir, on behalf of the Auditing Committee, I beg to report that we have examined the books of account and vouchers of the Treasurer of the Association and find that the same are correct, and that the sum reported by the Treasurer to be on hand is on hand. We, therefore, recommend the approval of the Treasurer's report.

The President:

Gentlemen, you have heard the report of the Auditing Committee. What is your pleasure in respect to it?

Allen Hughes, of Arkansas:

I move that it be received and the committee discharged, and that the Treasurer's report be approved in accordance with the committee's recommendation.

Leonard A. Jones, of Massachusetts:

I second the motion.

The motion was adopted.

Amasa M. Eaton, of Rhode Island:

On behalf of the Committee on Uniform State Laws, I beg leave to submit a brief report, and, as it has not been printed, with the permission of the Chair I will read it and move that it be received and placed on file and its recommendations adopted.

(*See the Report in the Appendix.*)

The President:

Is there any objection to the report taking the course suggested? There being no objection, it will be so ordered. The report is received and the recommendations adopted.

Robert S. Taylor, of Indiana:

I wish to present at this time a report from the Committee on Patent, Trade-mark and Copyright Law, if it is in order.

The President:

The gentleman may present the report.

Robert S. Taylor:

The committee, at the meeting of the Association held at Hot Springs, Virginia, two years ago, presented a report embodying a bill for the creation of a United States Court of Patent Appeals. That report was approved, and the draft of a proposed bill which accompanied it was also approved. The committee then proceeded to lay that bill before the Congress of the United States; it was introduced in both branches of Congress and was referred to the appropriate committee in each house. It was there antagonized—not on its merits, because there was no controversy as to the great desirability of a single court of last resort in patent cases, but by another bill brought forward on the initiative of a member of the Bar which provided for a court of different organization. That session of Congress passed by without any action having been taken. At the St. Louis meeting these facts were reported to the Association, and the committee was directed to continue its efforts to secure the passage of the proposed law. Since that meeting the committee, after further careful consideration of the subject and correspondence and conference with numerous members of the Bar, have felt it wise to suggest some alteration in the bill as originally reported. The report of the committee to the present meeting of the Association has been printed and is in your hands, including the bill as now proposed. I take it that members of the Association have improved the opportunity to read the report and this draft bill. So I shall not take the time to read either, and will simply offer this resolution:

Resolved, That the report of the Committee on Patent, Trade-mark and Copyright Law on the subject of the creation of a Court of Patent Appeals, be received and approved, and that the draft of a bill to establish a Court of Patent Appeals, embodied in said report, be and the same is approved by the Association, and the committee is directed to use all proper means within its power to secure the passage of the same by Congress.

Arthur Steuart, of Maryland:

I second the adoption of the resolution.

The resolution was adopted.

(*See the Report in the Appendix.*)

Robert S. Taylor:

I have another report from the same committee. The Section on Patent, Trade-mark and Copyright Law at its meeting day before yesterday passed a resolution which I will presently read. The occasion for the adoption of the resolution is the appearance in Congress of one or two or more bills, like some that have preceded them, proposing amendments to the patent law which the Section of Patent Law conceive to be of a dangerous and unconstitutional character. They are of this nature: From time to time certain interests in the country conceive it to be to their advantage to repeal the patent law upon some certain matter of invention. Some years ago we had a great convention of farmers in the West, which inaugurated a measure to secure the repeal of the patent law as to all agricultural implements; they wished no inventor of any improvement in such implement to be given a patent. The dentists have been clamoring for similar legislation, asking Congress to deny a patent to any man for anything which they desire to use in their business. There is at least one such bill now pending which is deemed to be of a similarly mischievous character. In view of this situation of affairs, the Patent Section at its meeting day before yesterday adopted this resolution:

WHEREAS, Under the provision of the Constitution that Congress shall have power to promote the progress of science and the useful arts by securing for limited times to inventors the exclusive right to their respective discoveries the acts of Congress for the past century have uniformly authorized patents for any new and useful discovery in any art, machine, manufacture or compoition of matter;

Resolved, That the Section of Patent, Trade-mark and Copyright Law of the American Bar Association deprecates any legislation which will deprive inventors of any subject of

invention enumerated in the statute of the benefit of the act by exempting in whole or in part any one of said subjects from the operation of the patent laws, thereby discriminating against any class of inventors.

I also offer this resolution:

Resolved, That the general principle enunciated in the resolution reported by the Section of Patent, Trade-mark and Copyright Law be, and the same is hereby approved, by this Association, and that the said resolution be referred to the Committee on Patent, Trade-mark and Copyright Law, with instructions to report upon the same at the next meeting of the Association.

The resolution is put in this form because it would not be permissible under the by-laws of the Association to ask the Association at this time to express any opinion upon the merits of any particular proposed legislation. It will be the duty of your committee, if this resolution shall be adopted, to look into the situation, and, if there is found to be pending any legislation which is considered as dangerous, to report that to the Association with all the facts and the opinion of the committee upon it. At the present time the Section of Patent, Trade-mark and Copyright Law only asks the Association to approve the general principles of the resolution which has been adopted by the Patent Section and refer the subject matter for further consideration and particular report to the Committee on Patent, Trade-mark and Copyright Law.

Joseph R. Edson, of the District of Columbia:

I second the motion made by the gentleman from Indiana.

The resolutions were adopted.

Robert S. Taylor:

I have another matter to bring up which will be somewhat novel to you. Early last spring a conference was called in New York City under the initiative of the Librarian of Congress to consider the somewhat confused and incongruous condition of our copyright laws with a view to drafting a bill which should amount to a practical codification of the copyright laws themselves, in order that they might all be put in

a harmonious form. The President of the American Bar Association was asked to name a delegate to that conference who should represent in it this Association. This was in the interim between meetings of the Association, and it was necessary that action should be taken at once. Under the circumstances the President of the Association appointed Mr. Arthur Steuart, of Maryland, to attend that conference as the representative of the American Bar Association. Mr. Steuart did so, and I hold in my hand his report. The conference was a very decided success. There was a very large representation of delegates from many, and I think I may say all, of the organizations interested in the subject of copyrights. This report contains a list of them; I will not read it, but it includes representatives from the Treasury Department of the United States, the American Authors' Copyright League, the American Dramatists' Club, the American Institute of Architects, the American Library Association, the American Newspaper Publishers' Association, the American Publishers' Copyright League, and something like a dozen others. The conference was in session a number of days, and the whole subject of the copyright law of the United States was considered with reference to the interests of all the various societies represented. A committee was appointed to draft a bill which, as I stated, should amount to a codification of the copyright laws of the United States, and our delegate, Mr. Arthur Steuart, was appointed a member of that committee, and upon him has devolved the labor of drafting the bill. He asks that he may have some assistance in that work, and he asks that the President of the Association be authorized to appoint two more members of the Association to act with him as delegates to this conference. Upon that subject I have drawn this resolution:

Resolved, That the President of the American Bar Association be, and he is authorized and requested to appoint two members of the Association to act in conjunction with Mr. Arthur Steuart, heretofore appointed by him to that duty, as

delegates to represent this Association in the conference on the copyright law called upon the initiative of the Librarian of Congress.

I move that the resolution be adopted.

Amasa M. Eaton, of Rhode Island:

I second the motion.

The resolution was adopted.

(*See the Report of the Delegate to the Conference in the Appendix.*)

Robert S. Taylor:

I have one further report from the Committee on Patent, Trade-mark and Copyright Law, upon the subject of the extension of patents. This subject was referred to the committee by resolution two years ago. The report is in print and has been distributed more than fifteen days before this meeting. It contains the draft of a bill providing for the extension of a patent in proper cases. I may say in general terms, what I have no doubt you have yourselves discovered if you have read the report, that the bill has been very carefully drawn so as to throw all possible safeguards about the extension of patents. The committee offers the following resolution:

Resolved, That the report of the Committee on Patent, Trade-mark and Copyright Law on the subject of the extension of patents be received and approved, and that the draft of a bill for the extension of patents, embodied in said report, be, and the same is approved by the Association, and the committee is directed to use all proper means within its power to secure the passage of the same by Congress.

I move the adoption of this resolution.

Everett P. Wheeler, of New York:

I will second that resolution.

The resolution was adopted.

(*See the Report in the Appendix.*)

The President:

Is there any report from the Committee on Grievances?

Moorfield Storey, of Massachusetts:

I am informed by the Secretary, Mr. President, that no grievances have been referred to the committee.

The President:

The next report on the list is the Committee on Obituaries.

The Secretary:

The Committee on Obituaries present the following report.

(*See the Report in the Appendix.*)

The President:

Gentlemen, you have heard the report. What will you do with it?

Rodney A. Mercur, of Pennsylvania:

I move that it be received and adopted.

Edmund Wetmore, of New York:

I second the motion.

The motion was adopted.

The President:

The Committee on Law Reporting and Digesting.

Edward Q. Keasbey, of New Jersey:

Mr. President and gentlemen: I have a written report here, which, however, embodies no resolution. The subject is one which has been discussed a great deal from time to time, and it seems hardly worth while to take up time now in reading the report. If the report is received and filed, it will be printed in our minutes. Two years ago the question whether some plan could not be adopted for reducing the volume of reports, either through the action of the judges or the reporters, was referred to the committee. The committee found that there is difficulty in doing that. There is a difference of opinion arising out of different conditions in various parts of the country. Where questions are well settled by a long line of decisions there is a desire that the reports should be shortened and that the Bar should be relieved from such a multiplicity of reports by the printing of cases which are not of special importance. In the newer states, however, there is a

desire to have all the cases reported. The committee, therefore, cannot make a general recommendation which shall apply to all states alike. In the first place, they endeavored to devise some definite uniform plan of reporting to be adopted in all the states; but this Association has no authority to provide that, and, as the reporters are not represented in the Association, no definite plan on that subject has been adopted. But, as a matter of fact, there is a general plan which has been adopted by those who have made digests for the whole country, and there is a general tendency among the various state reporters to adopt a plan which has become generally familiar and which has been found to be practicable. Another subject referred to the committee is the restriction of the volume of reports. Opinions which are merely discussions of the evidence and conclusions of fact ought not to be reported in full. If they are reported at all, a summary of the facts with a statement of the conclusions is all that should be printed. There are many opinions containing conclusions of law that are of no value at all in the reports. This is fully set forth in the committee's report, and I will not read it. The report refers to the fact that in England great care is taken in condensing the reports by a person appointed for the purpose; but there is no such officer in this country and the reporters have not the advantage of co-operation, nor can they take the responsibility, nor are they willing to take it, of selecting cases. In the Reporter system there is an organization in which competent men may be trained to work together on a definite plan, and the profession has a right to expect that the reports shall be made with a view to keeping down the volume of them as much as possible.

The President:

As the report has not been printed, but is in manuscript, I think the gentleman from New Jersey had better read it.

Edward Q. Keasbey, of New Jersey, then read the report.

(*See the Report in the Appendix.*)

John Morris, of Indiana:

I move that the report be received and adopted.

J. Crawford Biggs, of North Carolina:

I second the motion.

The motion was adopted.

The President:

Is there any report from the Committee on Classification of the Law?

James D. Andrews, of New York:

The specific subjects of the classification of law came before this Association about sixteen years ago through the medium of a communication from a New York lawyer. At that time it provoked considerable discussion, and it came before the Association just at the time of the memorable debate in reference to the codification of the law. The Committee on Classification of the Law have in times past done a great deal of work, but have accomplished very little results—perhaps less of practical result than they have of academic. The reason is, of course, that the Association and its committees cannot act practically upon a classification of the law and carry it out without the expenditure of more time and money than any ordinary committee can devote to it. I think also it may be safely said that the American Bar, and even the teachers, professors of law, have not been very actively interested in the subject of legal classification. I think it may be said that they do not fully perceive the intimate relations between classification of law and the primary, paramount object of this Association, namely, the promotion of jurisprudence, or one might almost say, the creation of jurisprudence; for until we have a systematic body of law systematized we cannot have a jurisprudence. It has, therefore, been agreed upon by those of the committee who are here, after consultation with the Chairman of the Committee on Jurisprudence and Law Reform, to ask the Association to commit the subject of legal classification, which is now committed to a special committee, to the

joint deliberations of the Committee on Jurisprudence and Law Reform and the Committee on Classification of the Law. In a matter of this kind the first thing is to impress upon our minds, and disseminate that impression throughout the profession, that classification is one of the essentials, if not the essential instrument of a highly developed jurisprudence. In reference to that subject I beg to submit to you a thought expressed by two great scholars. Oftentimes the most moderate expression may be accompanied with the greatest force, and oftentimes the most concise expression will carry the fullest conviction. I wish to read to you for incorporation into our minutes, so that you may peruse it at your leisure, an expression by that learned lawyer whose eulogies we have listened to here with such approbation, James C. Carter: "*A science, at least an inductive science, to which class law belongs, consists in the observation and classification of facts.*" On several occasions Mr. Carter emphasized and elaborated that thought. I desire to communicate it to you in all its strength and simplicity, and leave it to your judgment as to its truth, when on a later occasion we may have something to report to you. The other comes from a scholar not so well known in these circles, but I submit it because of the inherent strength and beauty of expression of the same thought, the intimate relations between classification and science: "The progress from the aimless observation of individuals to a system consists in this, that an order was introduced and applied in which these separate observations supplemented and checked one another, but the individual systems themselves still stood in chaotic confusion beside one another. An individual was needed to introduce order here, too. An individual framed, out of the many ideas concerning politics, science, jurisprudence, medicine, astronomy, mathematics, philology, a new and great conception—SCIENCE. We know this individual, and his divine name—Plato; and we know, too, the man who, with tremendous energy, undertook the task of carrying out the new programme, who first created a system of separate science, *a classification of human knowledge*—Aristotle."

In pursuance of our object, therefore, I submit this resolution:

Resolved, That the subject now referred to the Committee on Classification of Law be referred to a joint committee consisting of the Committee on Jurisprudence and Law Reform and the Committee on Classification of the Law.

James J. Bergen, of New Jersey:

I second the resolution.

The resolution was adopted.

The President:

The Committee on Indian Legislation. The Chair is informed that the committee has made a report, which is in print. Mr. Rose, of Arkansas, is Chairman of that committee.

George B. Rose, of Arkansas:

Our report is in print, Mr. President, and I will simply say that we have reported in favor of abrogating the tribal organizations of the Indians and of merging them into the general body of our citizens.

I move that our report be adopted.

The President:

Unless there is objection, it will be so ordered.

(*See the Report in the Appendix.*)

The President:

The Committee on Penal Laws and Prison Discipline.

R. W. Williams, of Florida:

Judge Baldwin, of Connecticut, is Chairman of that committee. He is in Europe, and the committee has had no meeting during the past year. Therefore there is no report to present.

The President:

The Committee on Federal Courts.

Alfred Hemenway, of Massachusetts:

That committee, Mr. President, has no report to make.

The President:

The Committee on Industrial Property and International Negotiation.

Melville Church, of the District of Columbia:

The Chairman of that committee is not present. So far as I know, the committee has no report to make.

The President:

The Committee on Louisiana Purchase Exposition.

The Secretary:

I have the report of that committee, which the Chairman of the committee has asked me to read.

(*See the Report in the Appendix.*)

James Hagerman, of Missouri:

Before a vote is taken upon the recommendation contained in that report to discharge the committee, I desire to offer the following:

WHEREAS, There has been transmitted to this Association from the Universal Congress of Lawyers and Jurists the following resolution: "*Resolved*, That this Congress, recognizing the importance of promoting friendly intercourse between the jurists and lawyers of different nations, to the end that by harmonious effort they may labor efficiently for the improvement of the law and the maintenance of international peace, request the American Bar Association to take such steps as are necessary to organize a permanent association of lawyers representing the different countries of the world, which shall meet at intervals to discuss legal questions of public interest, and that this resolution be transmitted to the Secretary of the American Bar Association." *Now, therefore*, Be it resolved that the foregoing resolution be referred to the Executive Committee of this Association for their consideration, report and recommendation at the next annual meeting.

The members of the Association will remember that at the Hot Springs meeting, in 1903, a resolution was adopted by this Association directing the delegates to the meeting of the Universal Congress of Lawyers and Jurists, after conference with the foreign delegates, to bring the attention of the Congress

to the proposition of whether or not an International Law Association should be formed. The delegates from this Association to that Congress, after conference with the foreign delegates, and with their concurrence, brought the matter before what was called the Council of Nations, which was the executive body of the Congress, and that Council reported to the Congress the resolution which I have just read and which, after some discussion, was unanimously adopted.

The purpose of my motion now is to refer this matter to our own Executive Committee to report their recommendations respecting it at the next meeting of this Association.

Ferdinand Shack, of New York:

I second the motion.

The President:

Is there any discussion of the motion?

James O. Crosby, of Iowa:

I have a word to say on this subject. It seems to me that the multiplication of organizations does not add strength to the purpose in view. There already exists an organization known as the International Law Association, which was formed under the influence of David Dudley Field, who was its principal promoter. It was organized at Brussels in Belgium. In consists of members from all the countries of the world except Russia. The purpose expressed in the petition calling for its organization by David Dudley Field was the codification of international law. International law has not yet been codified, but that association exists, and it consists of lawyers of all countries, except Russia, and representatives from many corporations, insurance companies and others, that have business relations extending throughout the dominions of the different nations. While naturally international law has been the subject of discussion at great length in those meetings, yet subjects have been taken up relating to all the affairs between citizens of different nations. What object is there to be obtained now by forming another organization which has in view simply the one purpose already included in the Inter-

national Law Association that I have spoken of? That association is to meet on the 4th of September in Christiania in Norway. It is true that officers of it are largely English. We have had only one meeting of that association in this country. This Association adopted a resolution yesterday appointing Judge Baldwin to attend that meeting as a delegate from this Association, and, as he is now in Europe, he will probably be there.

The motion referring the resolution to the Executive Committee was adopted.

The President:

The question now is upon the reception of the report of the Committee on Louisiana Purchase Exposition and the discharge of the committee.

Theodore Sutro, of New York:

Before we vote on that, Mr. President, I desire to move that the report be accepted and the committee discharged with the thanks of this Association.

The President:

The Chair is reluctantly compelled to rule that the motion of the gentleman from New York is out of order, as it contravenes a rule of the Association which forbids the extension of thanks to members of the Association.

The report was adopted and the committee discharged.

James O. Crosby, of Iowa:

I have a resolution which I should like to offer. It is as follows:

Resolved, That the American Bar Association records with pleasure that its visit to Narragansett Pier has served to add to the store of pleasant memories of its members, and that the Association will in future remember Rhode Island, not for the extent of her miles square, but for her broad and generous hospitality.

The President:

The Chair would remind the gentleman that a resolution of similar import has been already unanimously adopted by the

Association. At the same time the Chair does not find anything in parliamentary law which would preclude the resolution now offered by the gentleman from Iowa from receiving action at the hands of this assemblage.

M. F. Dickinson, of Massachusetts:

I would suggest, Mr. President, that the resolution already adopted on the same subject might in some way be brought together with the resolution now offered by the gentleman from Iowa, and I suggest that the Committee on Publications incorporate the two resolutions.

The President:

Without objection, it may be so ordered. It is so ordered.

The President:

Is the General Council ready to report nominations of officers for the ensuing year?

Amasa M. Eaton, of Rhode Island:

Mr. President and gentlemen of the Association: The General Council direct me to submit the following nominations of officers of the Association for the ensuing year:

For President: George R. Peck, of Chicago, Illinois.

For Secretary: John Hinkley, of Baltimore, Maryland.

For Treasurer: Frederick E. Wadhams, of Albany, New York.

For Executive Committee:

M. F. Dickinson, of Boston, Massachusetts;
Theodore S. Garnett, of Norfolk, Virginia;
William P. Breen, of Fort Wayne, Indiana;
Ralph W. Breckenridge, of Omaha, Nebraska;
Charles Monroe, of Los Angeles, California.

Also the following list of Vice-Presidents and members of Local Councils, which I will ask the Secretary to read.

The list of Vice-Presidents and members of Local Councils was read by the Secretary.

The President:

These nominations will lie over until we dispose of the business still remaining to be done.

Franklin M. Danaher, of New York:

Mr. President, I call for the special order of the day.

Theodore Sutro, of New York:

Before that is taken up, may I read a very short report from the committee appointed on amendment to the Constitution?

Franklin M. Danaher:

Will it give rise to any debate?

Theodore Sutro:

I do not think so.

The President:

Of course, if no objection is made, the report of the gentleman from New York may be presented now, otherwise it will have to go over to the order of unfinished business.

Franklin M. Danaher, of New York:

I think I must object to the consideration of the report at this time.

The President:

Then the special order is before us, which is the report of the Committee on Insurance.

Ralph W. Breckenridge, of Nebraska:

Mr President and gentlemen: On behalf of the majority of the Committee on Insurance Law, I move that its report be referred to the committee for the ensuing year with instructions to present for the consideration of the Association in a supplemental report a draft of such bill or bills as shall embody the views of the committee upon any measures that may be introduced in Congress relating to the subject of insurance or the regulation of companies transacting the business cf insurance.

I make this motion at this time because it is perfectly manifest that in the limited time left today the Association cannot carefully and properly consider the very grave questions which are raised by this report, and also in view of the fact that the report has only been printed and distributed about ten days.

Ferdinand Shack, of New York:

I second the motion.

James Hagerman, of Missouri:

May I ask the gentleman from Nebraska a question?

Ralph W. Breckenridge:

Certainly.

James Hagerman:

Does not a rule of the Association preclude the consideration of any report which has not been printed and distributed at least fifteen days before the meeting?

Ralph W. Breckenridge:

It was with a view of gracefully getting out from under what I presumed would prohibit the consideration of the report at this time under a strict construction of the by-laws that I made this motion.

Aldis B. Browne, of the District of Columbia:

I would offer an amendment to that motion to the effect that the report be recommitted to the committee with instructions to report on the subject at the next meeting of the Association, because I certainly do not think it is fair to the opponents of the measure presented in the report of the committee to vote upon it until we have had an ample opportunity to consider it.

Ralph W. Breckenridge:

If the gentleman from the District of Columbia noticed the language of my motion, I think he would not have made his suggestion, because my intention was to present the motion in such shape that it would not involve the expression of any opinion by the Association at this time regarding the merits of the report. My motion, as I put it, was this; On behalf of the majority of the committee, I move that its report be referred to the committee for the ensuing year with instructions to present for the consideration of the Association in a supplementary report a draft of such bill or bills as shall embody the views of the committee upon any measures that

may be introduced in Congress relating to the subject of insurance or the regulation of companies transacting the business of insurance.

William R. Vance, of Virginia:

I am opposed to the motion of the Chairman of the committee for this reason, which seems to me a very pertinent one. We do not want the attitude of the Association to be misunderstood upon this great question, which the majority of the committee have recommended, as appears at page 25 of their report: "Legislation by Congress providing for the supervision of insurance." Now, if this motion prevails, the result will be that the country will suppose that this Association desires reported to it a bill *in extenso* recommending national control of insurance. I am of the opinion, and I believe the opinion is shared by a majority of the members of this Association and of the lawyers of the United States, that such legislation would be absolutely null and void and would violate the Constitution of the United States. Therefore, it seems to me that to refer this matter, as contemplated by this motion, will be to allow the impression to go out to the public that this Association looks upon the subject as an unsettled matter and regards it as desirable that such a bill should be introduced in Congress, or, at least, brought before the American Bar Association, and undoubtedly the impression would be gained that the opinion of this Association was that such legislation would be proper and constitutional. Furthermore, if this motion prevails it will impose upon the committee the burden of preparing an act to carry out the recommendation of the committee, which is a bill for the national control of insurance, and would require the working of this committee at an expense to the Association both of time and of money, and all done in an effort to frame a bill which in the end, I believe, would be declared absolutely unconstitutional. Therefore, I am opposed to the motion. We should have time to consider this important question. We do not want any snap judgment on it. It should be thoroughly debated, and that would be impossible

under the circumstances here today. If it is the will of the Association that the subject pass over for another year so that it may be thoroughly and fully investigated, I shall have no objection, but I do object to passing a motion in this form which will create the impression throughout the country that the American Bar Association thinks such legislation necessary or desirable.

Henry C. Niles, of Pennsylvania:

I desire to insist upon the point of order that was made by some gentleman a few moments ago that this report is not properly before the Association, and that therefore it should be recommitted to the committee for further consideration and report next year. Under the by-laws, section XII: "All committees may have their reports printed by the Secretary before the annual meeting of the Association; and any such report, containing any recommendation for action on the part of the Association, shall be printed, together with a draft of bill embodying the views of the committee, whenever legislation shall be proposed." It does not seem to me, however complimentary we desire to be to the majority of the committee, that we ought to evade a by-law in such a manner as is proposed. I think the proper thing to do is to recommit this report to the committee, and I make that motion.

George Whitelock, of Maryland:

I second that motion.

The President:

For the information of the Chair, I desire to ask the Chairman of the committee whether the majority report of the committee suggests any legislation?

Ralph W. Breckenridge:

It certainly does, sir.

Henry C. Niles:

And my point of order is that under by-law XII it cannot be considered at this time.

The President:

The Chair understands the point of order of the gentleman from Pennsylvania to be that the report recommends certain legislation, but does not contain a draft of the bill embodying the proposed legislation. The gentleman does not make the point that the report has not been printed in time.

The Secretary:

Mr. President, the Secretary would state that the report was printed and deposited in the mails at least fifteen days before the opening session of this meeting.

Franklin M. Danaher, of New York:

I do not understand the gentleman from Pennsylvania to make the point of order that the report was not printed in time; that is not his point, but his point is that it does not contain a draft of the bill embodying the legislation that is proposed.

Ferdinand Shack, of New York:

By way of elucidation, Mr. President, let me say this: I have the recommendations right before me now. The first recommendation is that there shall be legislation by Congress providing for the supervision of insurance. The second recommendation is the repeal of all valued policy laws. The third recommendation is a uniform fire policy, the terms of which shall be specifically defined. The fourth recommendation is the repeal of all retaliatory tax laws. The fifth is stricter incorporation laws in the several states as they affect the creation of insurance companies, and a federal statute prohibiting the use of the mails to all persons, associations or corporations transacting the business of insurance in disregard of state or federal regulations. Now, there is not a bill of any sort embodying the views of the committee presented by the committee.

George Whitelock, of Maryland:

Will the Chair pass upon the point of order that has been raised?

The President:

The Chair holds that the point of order made by the gentleman from Pennsylvania is well taken, and that the report of the committee is not before the house.

Henry H. Ingersoll, of Tennessee:

That ruling refers to the report of the majority of the committee, I suppose?

The President:

Yes, sir.

Henry H. Ingersoll:

Then, sir, I move that the Association approve the minority report, which is properly now before this body.

William A. Ketcham, of Indiana:

I would like to inquire if the minority report comes in of its own right, or as a report appertaining to the majority report?

Amasa M. Eaton, of Rhode Island:

Mr. President, I think the best way to dispose of this matter is to refer the entire matter back to the committee for report next year.

The President:

The motion of the gentleman from Rhode Island cannot be entertained. Is the motion made by the gentleman from Tennessee, that the minority report be approved, seconded?

Oscar R. Hundley, of Alabama:

I rise to the point of order that there can be no minority report from a committee where there is not a majority report, and we have just decided that there is no majority report before the house.

The President:

The Chair finds itself confronted by a precedent. The point was made last night that the minority report of a committee was not a part of the committee's report, and the Chair did not agree with that idea, but held that a minority report was a part of the report of a committee. Therefore, the Chair rules, on the point of order made, that the disposition made

of the entire report would carry both the majority and the minority report.

Moorfield Storey, of Massachusetts:

Then I understand the ruling of the Chair leaves the question in just the same position it would be if the committee had made no report at all?

The President:

Yes, sir. That is the view of the Chair in regard to the matter.

Walter George Smith, of Pennsylvania:

I do not distinctly understand the ruling of the Chair, and I rise for information. I understand the situation to be this: Majority and minority reports have been submitted. The majority report was so drawn as not to be in accordance with the by-laws, and therefore we could not consider it except by unanimous consent. The minority report, however, is strictly in accordance with the by-laws, and a motion to substitute the minority for the majority report would have been in order. Is not that so, Mr. President?

The President:

But that motion was not made. Does the gentleman from Pennsylvania appeal from the decision that the Chair made?

Walter George Smith:

I do not care to appeal from the decision of the Chair, but I think there is a strong feeling in this Association that this subject can be considered and disposed of now and that there is no reason, because of any mere technicality, that the matter should be referred back to the committee, especially if the members of the Association here present feel themselves sufficiently enlightened upon the subject. Therefore, if it is possible under parliamentary law, I should like to move that the Association take up and consider the minority report. We can dispose of the subject in that way.

John C. Richberg, of Illinois:

The subject matter has already been disposed of, and I therefore raise the point of order that the motion made by the

gentleman from Pennsylvania cannot be entertained unless we reconsider the action thus far taken and appeal from the ruling of the Chair.

Moorfield Storey, of Massachusetts:

Will the Chair entertain a motion to instruct the committee?

The President:

Will the gentleman from Massachusetts state the motion he would like to make?

Moorfield Storey:

I would move that the committee be instructed in their report next year to present no bill which shall contemplate federal supervision of insurance.

Walter George Smith:

I will second that motion.

The President:

The Chair would be very glad to have the gentleman from Massachusetts give him some authority to justify the entertaining of a motion of that character now.

Moorfield Storey:

As the Association is now in session, I assume that it has the power not only to constitute committees and decide what shall be referred to them, but also to instruct committees what business they shall consider. I assume that it is competent for this Association to instruct this committee to present a bill, and, if it is competent so to instruct them, then I think it is competent for the Association to express its opinion that no law contemplating federal supervision of insurance is desired. In other words, this committee has made certain recommendations which seem to many of us unwise, if not unconstitutional; and, rather than that the committee should take the trouble of going to work to devise a law to evade the Constitution, I think it wiser that the Association should save them that trouble in advance. I believe the Association is prepared to consider this question on its merits, and I think there must be some method by which it can be done now, and

it is with a view of finding such a method that I make my motion.

E. Spencer Miller, of Pennsylvania:

I make the point of order that the motion of the gentleman from Massachusetts is inconsistent with the resolution which we have passed recommitting the report to the committee. He might as well move that the committee be prohibited from reporting upon a constitutional question as to make the motion which he does make.

Franklin M. Danaher:

I appeal from the decision of the Chair by which it was decided that the Association could not at this time consider the minority report.

The President:

I think it is too late now to appeal from the decision of the Chair.

Franklin M. Danaher:

I think not, sir.

The President:

The Chair must rule that it is too late.

Franklin M. Danaher:

I do not believe the Chair wishes to stifle debate on this question.

The President:

Not at all, sir; but the Association must proceed in order.

Franklin M. Danaher:

In a meeting composed of lawyers it is absolutely impossible to arrive at any definite result unless the presiding officer allows full opportunity for discussion.

The President:

That is what the Chair has been attempting to do, and is, of course, willing at all times to do.

Fabius H. Busbee, of North Carolina:

I desire to suggest what I think will be a legitimate way of bringing this matter before the Association, namely, a short

resolution of instruction to the committee. It is clearly within the province of this Association to instruct its committee upon what line of legislation they are to continue their deliberations.

Franklin M. Danaher:

Does the Chair still maintain its ruling that my appeal from the decision of the Chair comes too late? Or does it come down to the mere question that the President of the Association, by virtue of his power and the fact that some motions have intervened, intends to suppress the discussion of this subject?

The President:

The Chair will state to the gentleman from New York and to the Association that, without much parliamentary knowledge, but with an intense desire to carry out the will of this body, he has attempted to carry through these discussions; and the Chair desires further to state to the gentleman from New York that he declined to entertain his motion appealing from the ruling of the Chair because, under parliamentary rules, the motion came too late, but the Chair recognizes that he is simply the agent of this body, and the motion of the gentleman from Massachusetts, which is now before the Association, proposing a resolution of instructions to the committee on this subject is a motion as to which the Chair is in doubt and upon which he will be very glad to have the views of members as to the right to entertain it. The Chair desires to express the opinion, however, whatever may be the fate of the motion, that this body is all-powerful to do as it pleases, and the Chair is but the instrument to carry out its will.

George Whitelock, of Maryland:

I would move, as a substitute to the motion made by the gentleman from Massachusetts, the following:

Resolved, That the American Bar Association is of the opinion that federal supervision of insurance would be, under the decisions of the Supreme Court of the United States, illegal and unconstitutional.

Moorfield Storey, of Massachusetts:

I will accept that in place of my motion.

Raphael J. Moses, of New York:

We are now on the order of reports of committees. It is perfectly practicable, I submit, to bring this subject up under the head of miscellaneous business. Then discussion can be had as to the constitutionality of the proposed act and as to the advisability of it, but I insist that it does not properly come under the order of business we are now on.

The President:

The Chair would state to the gentleman from New York that this subject is now being considered as unfinished business and is therefore in order at this time.

Melville Church, of the District of Columbia:

Will Mr. Whitelock accept this as a substitute for what he has just offered:

Resolved, That it is the sense of this Association that it is inexpedient at this time to take any action on the subject of federal legislation in the matter of insurance?

George Whitelock:

I decline to accept that as a substitute.

Raphael J. Moses, of New York:

Was Mr. Whitelock's amendment seconded?

Edward B. Whitney, of New York:

I will second it.

The President:

The substitute offered by Mr. Whitelock and seconded by Mr. Whitney is before the house.

Amasa M. Eaton, of Rhode Island:

I sincerely hope that will not prevail. There can be no doubt of the right of this Association to instruct its committee, but I think it would be very inexpedient to take such a step as this would be, limiting the power and the deliberation of the committee. I do not believe the committee should be

handicapped in that way, but should be left free to act according to their best judgment.

William A. Ketcham, of Indiana:

I move that both the original resolution and the substitute be referred to the incoming committee on insurance.

Amasa M. Eaton, of Rhode Island:

I second that motion.

The President:

Does the gentleman from Indiana offer that as a substitute for the motion made by the gentleman from Maryland?

William A. Ketcham:

My motion is that the resolution and substitute be referred to the incoming committee on insurance.

Henry C. Niles, of Pennsylvania:

Mr. President, I rise to a point of order.

The President:

The gentleman will state his point of order.

Henry C. Niles:

My point of order is that by these several resolutions we are in reality evading our rules and the ruling of the Chair. One of the resolutions is really a proposition to adopt the minority report, which is not before us. Another is a proposition to adopt the majority report, which is not before us. The Chair has ruled that neither of those reports are properly before the Association. Accordingly, we ought not to attempt to evade our own rules and the ruling of the Chair.

The President:

The Chair feels compelled to overrule the point of order made by the gentleman from Pennsylvania. The question before the house is the resolution o the gentleman from Maryland with the motion to refer offered by the gentleman from Indiana.

Henry H. Ingersoll, of Tennessee:

I desire to make the point of order that the motion to instruct the committee is out of order and cannot be entertained.

Moorfield Storey, of Massachusetts:

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Henry H. Ingersoll, of Tennessee:

I desire to make the point of order that the motion to instruct the committee is out of order and cannot be entertained.

The President:

The Chair does not understand the question now before the house to be of that nature, and therefore overrules the point of order.

James D. Andrews, of New York:

I rise to a point of order.

The President:

The gentleman from New York will state it.

James D. Andrews:

My point of order is this: The motion is to refer a resolution, the subject of which is that it is the sense of this meeting now, in the present tense, that the law is so and so. I maintain that that is not the subject for the consideration of the committee. It is another topic. It passes upon one thing now, a thing which I understand there are members of the Association who desire to discuss. The sense of this meeting as to whether the proposed legislation is constitutional or unconstitutional can be passed upon now and here, and is not a part of the province of that committee.

The President:

The Chair overrules the point of order for the obvious reason that it is not a question of propriety, but of power. This body has the power to refer this subject of insurance to the Committee on Classification of the Law, if it wishes to do so.

George Whitelock, of Maryland:

Do I understand that there is an amendment to my resolution?

William A. Ketcham, of Indiana:

I moved to refer the gentleman's resolution to the incoming Committee on Insurance.

George Whitelock:

My resolution was that this Association is of the opinion that federal supervision of insurance would be, under the decisions of the Supreme Court of the United States, illegal and unconstitutional.

Henry C. Niles, of Pennsylvania:

I understood that was accepted by Mr. Storey. Is not that so?

The President:

Yes, sir.

Melville Church, of the District of Columbia:

Then, if that has been accepted, the matter before the house is Mr. Whitelock's resolution.

George Whitelock:

But I understood Mr. Ketcham made a motion to refer the resolution to the incoming committee for next year.

Melville Church:

The motion of Mr. Whitelock not having been acted upon, and standing as the question before the house, I move this as a substitute for it:

Resolved, That it is the sense of this Association that it is inexpedient at this time to take any action on the subject of federal legislation on the matter of insurance.

John C. Richberg, of Illinois:

I would suggest, in view of the fact that the incoming committee may, perhaps, present quite a different report from the reports that have been made by the majority of the committee and minority of the committee as presented here, that both resolutions be referred to the incoming committee.

Ernest T. Florance, of Louisiana:

I rise to a point of order. A motion to commit is a privileged question, and it must be put prior to any other motion made subsequent to it. The motion to commit Mr. Whitelock's resolution is a privileged question, and until that is passed upon no other motion, except a question of a higher nature, can be put by the Chair.

The President:

The Chair desires information as to how the question shall be put. You have heard the motion of Mr. Whitelock to which the gentleman from Indiana adds that he moves it be

committed to the incoming Committee on Insurance. Thereupon, the gentleman from the District of Columbia moved a substitute to the motion made by the gentleman from Maryland. How shall that vote be taken—on the question of whether Mr. Church's substitute shall be taken in place of the resolution of Mr. Whitelock?

Ernest T. Florance, of Louisiana:

I submit that the motion to commit shall first be put to vote.

William A. Ketcham, of Indiana:

May I inquire whether that question can be entertained until the motion to refer to the incoming committee has been disposed of.

The President:

The Chair thinks it is competent for the gentleman from the District of Columbia to move his resolution as a substitute for everything that is now pending.

John C. Richberg, of Illinois:

Would a motion be in order, then, that both resolutions be referred to the incoming committee?

The President:

The Chair does not think that motion in order at this time. The Chair thinks we should first determine whether one resolution or the other will be accepted by the house.

George Whitelock:

I should like to appeal from the decision of the Chair in that ruling. It seems to me Mr. Ketcham's motion to refer should first be considered.

The President:

The Chair is simply seeking information as to how the vote shall be taken; whether on the motion of the gentleman from Indiana, that the resolution shall be referred to the committee or on the motion of the gentleman from the District of Columbia that his resolution be substituted.

Ernest T. Florance:

Upon that point I make the point of order that as a matter of parliamentary law there are privileged questions. One privileged question is a motion to recommit, which takes precedence of everything with the exception of another privileged question of higher rank. It is impossible to make an amendment to an original motion, or to offer a substitute to an original motion, after a privileged question has been propounded to that motion. In the same way, after a motion to lay on the table has been made, you cannot offer an amendment to the original motion.

Hugh Gordon Miller, of Virginia:

Have the members of the incoming Committee on Insurance been named?

The President:

No, sir; not yet.

Hugh Gordon Miller:

Then, sir, how can this matter be referred to a committee that is not in existence?

The President:

It is a standing committee of the Association.

Harvey N. Shepard, of Massachusetts:

It is in order, then, for us to vote either upon the motion to commit, made by the gentleman from Indiana, or upon the motion to substitute an amendment for the resolution which was first offered, and it is for the Association to decide now which it will do.

George Whitelock:

It is for the Chair primarily to rule.

The President:

The Chair has asked the advice of the house as to how the matter should be put. However, the Chair is satisfied with the light that it has received that the question should first be put upon the resolution offered by the gentleman from Indiana

referring this resolution to the incoming Committee on Insurance. That is the question now before the house.

George Whitelock:

Then that question is debatable, I take it, and before the vote is taken I should like to state my views on the main proposition. If members do not want to hear the merits discussed, then I will speak on the motion. I offered the main resolution before this body because, somewhat contrary to my own expectations, I found upon an examination of the decisions of the Supreme Court of the United States that the proposition of the majority of the committee as contained in their report was, in my opinion, undoubtedly unconstitutional. I thought the majority of the American Bar Association would be of my opinion; that is, that if the Supreme Court of the United States, through a period of forty years, beginning in 1868, when the case of Paul *vs.* Virginia was decided, had determined that insurance was not a transaction of commerce, and the making and delivery of a policy of insurance no part of interstate commerce—

William A. Ketcham, of Indiana:

I rise to a point of order.

The President:

The gentleman from Indiana will state his point of order.

William A. Ketcham:

My point of order is this: I understand the subject before the house now is the propriety of referring a resolution to the incoming Committee on Insurance and not a question as to the wisdom of the resolution. Therefore, my point of order is that the gentleman is discussing a question which is not now before the house; he is discussing his own resolution.

George Whitelock:

I do not mean to discuss my resolution.

William A. Ketcham:

I do not know what the gentleman means to do, but I know what he is doing, and that is what I object to.

The President:

Of course, in discussing a question of this sort, gentlemen must be allowed great latitude, and the Chair thinks the gentleman from Maryland may proceed.

George Whitelock:

If this were a perfectly new question, then it would be proper for the majority of the committee to bring in the report which they sought to bring in and which is not now before us, and then it would be proper for them to use the arguments which Justice Benjamin R. Curtis addressed to the Supreme Court of the United States in 1868, and which were then held not to be valid or substantial, and that doctrine has been reaffirmed in at least three cases before the Supreme Court of the United States since then—six cases, I am informed. Now, if there is any body in America which ought to be governed by the law and which ought to uphold the doctrine of *stare decisis*, it is the American Bar Association; and, if I am right in my interpretation of those decisions, this body does not and ought not to stultify itself by referring to a committee a proposition which the Supreme Court of the United States has decided time and again. That is not the principle which should control this Association. Twenty-three of the greatest justices that ever occupied the bench of the Supreme Court of the United States have passed on this proposition in six cases, and there has not been in any one of the six cases a murmur of disapproval, from democrat or republican sitting on that bench, in regard to the fundamental doctrine that insurance is not a transaction of commerce. If that be true, if fifteen republican and eight democratic judges, with their divergent views of the Constitution, have found no difficulty on the fundamental proposition, why send this question to a committee of five gentleman of the American Bar Association to inform us whether or not such legislation would be constitutional? The place to send this matter, when we come to discuss it on its merits, is to the Committee on Uniform State Laws. Therefore, I am opposed to the proposition of my

learned, distinguished and old-time friend, Mr. William A. Ketcham, of Indiana, and I hope we shall have an opportunity to discuss before this body, and not before a committee, the proposition, whether or not the Supreme Court of the United States has shut the door to the proposition submitted by the majority of the committee.

William A. Ketcham:

As at present advised, I am in hearty accord with the gentleman from Maryland who has just spoken on the legal proposition, and I wanted to help him out.

George Whitelock:

I am able to help myself.

William A. Ketcham:

While my friend is abundantly able to help himself, I wanted to help take care of him. I have read with interest a paper, which is not a report. I have the very highest opinion of the intellectual and legal attainments of the gentlemen who have signed that paper, which is not a report. I do not concur, as at present advised, in their conclusion, but they appear to have considered it intelligently and conscientiously, and it is therefore reasonably probable that I may be mistaken, and possible, but only possible, that the gentleman from Maryland may be mistaken. It is clear that no legislation can now be proposed or considered under the rule. But if gentlemen of the standing of these who have signed this paper (which is not a report), are of the opinion (as I am not), that the law would justify proceeding along other lines, I think it would be highly important to have the aid, assistance and co-operation of another Committee on Insurance, possibly as strong a committee as this, and then this Association can discuss, not only the moot question of what is the sense of the American Bar Association, but the practical concrete question as to whether a particular law shall meet with the approval of this Association. Therefore, it seems to me that it is eminently prudent and wise that the matter should go to a new committee, and that we should proceed with deliberation, giving the highest

meed of consideration to the high opinions entertained by the gentleman from Maryland and a little consideration to the opinions entertained by the former committee.

Moorfield Storey, of Massachusetts:

There is one rule which ought to be observed by every deliberative body, and that is that it should undertake to discuss a question when the discussion is timely. I am informed that at the last session of Congress a bill was introduced which, if passed, would constitute a declaration by Congress that the business of insurance is a business of interstate commerce. It may well be that the same movement, which led to the introduction and possibly the passage of that bill, has, perhaps, presented the side of the insurance companies a little too strongly to the members of this Association. It is very clear to me that the arguments which the committee adduces are arguments which naturally weigh with representatives of insurance companies rather than arguments which would present themselves to the citizen who is dealing with insurance companies. Now, if we are to express an opinion which is to have any weight whatever, that opinion should be expressed before Congress legislates, and if this matter goes back to the committee and consideration is postponed for a year we may find that our opinion is neither desired nor valuable because the passage of the pending bill will withdraw the question from the consideration of this Association and relegate it exclusively to the consideration of the court. Let it be distinctly understood that I do not wish in the least to impute to the gentlemen of this committee that they in any way represent the insurance companies. I know them well and I have entire confidence in them, but when they come to consider this question they give effect, perhaps by the argument presented, to the insurance company's side, and there is a great deal to be said on the other side of which I find no trace in the report.

Franklin M. Danaher, of New York:

How many of us will be at Los Angeles, or wherever the Association may meet next year, to read the report of the

committee? In view of what Mr. Storey says of its tendency towards the side of the insurance companies, we may rest assured that the companies will be represented there, and many of us who are here today will not be there.

Moorfield Storey:

This is a matter of supreme importance. If the door is once opened, it is opened wide to federal supervision of many another class of business just as clearly interstate business as the business we are here speaking of. What we want to do is to set our faces against the first step. It is not the question whether my friend, Mr. Ketcham, is reasonably right; it is not the question whether my friend, Mr. Whitelock, is possibly wrong. The question is whether we, members of the American Bar Association, can read the decisions of the Supreme Court of the United States. It is not my opinion, it is not General Ketcham's opinion, it is not Mr. Whitelock's opinion, but it is the opinion expressed by the masters of law and of English in a series of decisions which any man who has the faculty of reading the English language can understand, and the question is whether this Association proposes to put itself on record as asking the Congress of the United States to declare that that is law which the Supreme Court of the United States in a series of decisions has decided is not law. That is the question upon which I want this Association now to express its opinion. I do not want this question put off for an indefinite number of years and brought up, perhaps, at some distant time. I think we are competent to deal with what the Supreme Court of the United States has said, and I hope we are going to have the opportunity now and not refer the question of whether we should express our opinion to the committee which has already expressed its opinion.

Hugh Gordon Miller, of Virginia:

As I understand it, Mr. President, this is not a judicial body. I am opposed, therefore, to the resolution offered by the gentleman from Maryland because it seeks to have this body say that the Supreme Court of the United States has

closed the door to any further action with reference to the law governing insurance in this country so far as state and federal jurisdiction is concerned. No man in the country has a higher regard for the Supreme Court of the United States than I have. You and I, sir, both originally came from the state of John Marshall, the great Chief Justice (and I say this with all deference to the distinguished members of that, the greatest tribunal on earth, who are present with us in this convention), who long ago, it must be conceded, breathed into the dead parchment of the American Constitution the real breath of national life; who, in his decisions, enunciated those great principles upon the spirit of which the majority of the Committee on Insurance Law here apparently rely; principles which gave to the instrument in question the necessary elasticity as well as strength which, through all the subsequent evolutions of the country, have made the Constitution adaptable to all the actual and crying needs of the republic. I am here to say, as a humble member of the Bar Association, that it is not within the power of the Supreme Court of the United States to close the door on this body, a body which is here, as I understand it, not only to discuss laws, but if necessary to suggest laws; and I take it that it would be entirely within the province of another committee to suggest an amendment to the Constitution to cover this question if it saw fit. I submit that it is not within the power of the Supreme Court of the United States to govern this body in what it shall do in reference to that subject. So that if a committee, after determining all these cases as we are familiar with them, should determine that it is inadvisable to present an act to Congress for adoption, but that an amendment should be provided to the Constitution of the United States, I take it that such committee would have the right to make such a recommendation. So that this resolution of my friend from Baltimore, which seeks to put this Association on record as saying that this whole question is closed so far as we are concerned, is entirely out of order; and another committee, the incoming Com-

mittee on Insurance Law, can recommend, if it chooses, an amendment to the Constitution to cover this question. I therefore urge that this body do not put itself on record as saying that the door is closed to all further or additional law upon that subject.

Ralph W. Breckenridge, of Nebraska:

I do not expect to discuss the merits of this proposition on a motion to refer it to the incoming committee, but in view of some suggestions that have been made, perhaps a word may not be out of place from the Chairman of the committee, who speaks in behalf of the majority. That the Chairman of the committee or any member of the committee has been influenced by any desire other than to find out the truth I deny. We are seekers after truth. It was our hope that we would find an opportunity to present the views of the committee upon this subject—that is the views of the majority of the committee. We know nothing at all about these warring interests. We do not represent the insurance companies, nor the insurance newspapers, but I think those of you who have read this paper—General Ketcham has called it a paper and not a report—will find that every line of it shows the intention of the committee to treat the subject of federal supervision from the standpoint of the people regardless of what the corporations say, regardless of what those dominated by life-long and ice-bound conservatism in insurance matters have to say in opposition. What we ask is that there be no misunderstanding of the motives of the committee. If this matter is referred to the incoming committee, that committee, whoever may compose it, will, I suppose, consider the questions carefully. I may say that the people whose rights are at stake have been consulted, so far as it was possible, with regard to the subject matter of this report.

William R. Vance, of Virginia:

I desire, as the minority member of the committee to add my testimony to what has already been said by the Chairman as to the complete fairness that governed all discussions of the questions in the committee, and I am confident that no indi-

rect influence of any kind affected any member of the committee in forming the conclusion he reached. From the very beginning it seemed that the members of the committee took the line of thought that has finally crystallized in this paper which General Ketcham says is not a report. I desire to say also as the minority member of the committee that I hope this motion made by the gentleman from Indiana will not prevail, for the reason that it is desirable now to vote upon this question. I believe the members of the Association are ready to vote upon it now. The meeting of the Association next year may take place at such a time or in such a locality as will render it impossible for some of us to be there. We have been thinking on this question and we desire to vote upon it now and get it out of the way so that it may not come up next year to take up our time from other and perhaps more important matters.

Raphael J. Moses, of New York:

The question, as I understand it, is simply whether we shall refer this matter to a new committee or discuss it here and now. I think the difficulty about discussing it now is that it deals only with a single radical legal question which is utterly incomplete. There are in one single company six hundred thousand policy holders. That company is troubled with what? Not with lack of supervision, because they have had plenty of supervision of late. We have found them faithless to their trust. The great trouble with our law at present is that the people who own that money have no right to go into court to protect themselves except through petition to the attorney-general. I am quite clear that if we simply pass upon this proposition as to whether there should be federal supervision of insurance we shall have done nothing to cure the evils of which we are suffering. Suppose we do decide that federal supervision is possible. (I do not believe it would be constitutional.) We should postpone the matter and send it to the incoming committee so that they might report to us next year and report to us upon other points of protection

in reference to the subject. The present committee reported upon five different matters wholly irrelevant to the question which we are now discussing. They reported suggesting a uniform fire policy; the repeal of all valued policy laws; the repeal of all retaliatory tax laws and stricter incorporation laws. The minority of the committee simply refer to a single question. I therefore suggest that we do nothing. We are simply wasting our time. We will do harm by the very discussion of the proposition that federal supervision is constitutional by leading people to believe that it would have some effect. The only effect anywhere of supervision is to ascertain the truth, whether it be by the Superintendent of Insurance, as in New York, or by federal authorities. Supervision finally comes down to the simple proposition which the Board of Trade in London gives us. What are the facts? We cannot get the facts under any discussion proposed here by this resolution. I earnestly hope that everyone will vote to have this matter postponed and send it to the incoming committee and let them take the broad question up and endeavor to reach the evil. I have been thirty years in this fight against insurance companies, and I know what the evil is. The evil is that a great part of the money obtained as premiums is kept by the companies under a contract that it is to be returned after a certain period, but when the end of the contract comes they offer the insured fifty per cent. of the money they hold for him, and he has to take it because the law forbids a policy holder bringing an action against the company.

James M. Beck, of New York:

I had abandoned any purpose of discussing this question in any form or manner, and have sat quietly throughout this debate without changing in any way my determination in that respect until the gentleman from Massachusetts lent the great weight of his honored name and standing at the Bar to a rumor that has been industriously and I think maliciously circulated in the corridors of this hotel that the three great life insurance companies had in some respect inspired and dictated the report

of the majority of the committee; and the rumor-mongers went further, as some of you may know, and, entering into those circumstantial details which sometimes give verisimilitude to an otherwise bald and unconvincing narrative, stated that not only had the majority report been dictated by the life insurance companies, but that I, as one who is privileged to represent one of the companies, had drafted the report, and they were even kind enough to name the fee which I was supposed to have received.

I am glad of the opportunity to say, and, if the gentleman from Massachusetts had not made the remark he did, I probably would have no excuse for saying it, that whoever originated the story, which is alike an insult to the committee and to me, that I, masquerading behind the committee, sought to influence the American Bar Association in behalf of any corporation or that the committee permitted me to use its powers in order to achieve some selfish purpose for a great life insurance organization—whoever originated that story uttered a mean and despicable falsehood. I, of course, gladly acquit Mr. Storey of any intention to do me an injustice. As a matter of fact there has been one life insurance organization represented here which, for purposes best known to itself, does not want federal supervision, and it has assiduously circulated these false stories and endeavored to prejudice the members of the American Bar Association against the majority report of the committee.

I have no intention to enter into the discussion of the grave constitutional and economic questions so admirably discussed in the report of the committee. I think that is far from the purpose of the resolution before the Association. I cannot agree with Mr. Whitelock that the question of constitutional law is so free and clear from all doubt. My interest in the question began when I had the privilege of arguing the Lottery Cases, a case in which the doctrine laid down in two very important insurance cases seemed an impassable bar to the government's contention, and I think I need only mention to

this body of lawyers that four of the justices of the Supreme Court in their dissenting opinions found that the doctrine of the Lottery Cases that a lottery ticket was a subject of commerce, as announced by the majority of the court, was inconsistent with the so-called Insurance Cases that an insurance policy was not, and to some extent, at least, modified their doctrine. But I will not go into that, because it is impossible at this late stage of the meeting to discuss adequately a question of such magnitude and so dependent for its rightful determination upon such a nice reading of—

William L. January, of Michigan (interposing):

Mr. President, I rise to a point of order.

The President:

The gentleman will state his point of order.

William L. January:

My point of order is that I do not think this is the occasion for an apology from an insurance company, and I think the gentleman is entirely out of order in his discussion.

The President:

The point of order is not well taken, and the gentleman from New York may proceed.

James M. Beck:

I believe I had already passed that question of personal privilege, which may not have been wholly germane to the discussion, when the gentleman made his point of order, and he was therefore a little subsequent. However, I do not propose to discuss the constitutionality of federal supervision. I merely rise to point out to this body the unfairness, the absolute want of judicial spirit that would characterize it, if it takes up and passes the resolution of my esteemed friend from Maryland. What will it, in effect, do? It will do this: A committee of members of this American Bar Association, by a majority of four to one, considering with great care a very grave and important question, file a report—of which I think I can say that it is the most effective presentation of one side of a great

question of which I have any knowledge—and that report, which we all expected to have come before us with ample time for its adequate discussion, and as to which I had hoped if it were discussed upon its merits that I might be able to take some part, is, through a very proper compliance with the by-laws, declared not to be before the Association; and then, when it is thus sidetracked, the very members who raised the technical point that it could not be considered at once offer a resolution containing the very substance and core of the report and ask this body to pass upon the abstract principle of the committee's report without having such report before the Association. That, I say, would be a grave discourtesy to a committee of this Association which has given so much time and consideration to so very important a question.

Therefore, Mr. President, addressing myself wholly to the one resolution before this body and realizing the inadequacy of the time to discuss a question of so vital importance to the American people. I hope, if for no other reason, in justice to the four members of the Committee on Insurance, that this subject may not be prejudged, now that it is out of their hands, but that the resolution offered by the gentleman from Maryland will be referred back to the committee, where it belongs.

Moorfield Storey, of Massachusetts:

I simply rise to put my position right before the members of the Association and to say that I find myself in cordial accord with Mr. Beck. The statement which he has made is exactly the statement which I made, and that is this: that the report of the majority of the committee is one of the ablest presentations of one side of the question that has ever been put out. It was precisely because it seemed to me to be a one-sided presentation of the case that I suggested that the committee had heard the arguments on one side and had not given weight to the arguments of the other side. That is all I said, and that is all I meant to say. I did not suggest—and indeed I do not think I had heard the suggestion made—that Mr. Beck had drawn the report, nor had I heard that anybody was paid

to draw it. It is an able report of one side of the question, and I wanted to have the other side heard, too, by the Association, before the matter went back to the committee.

Frederick N. Judson, of Missouri:

I shall vote to commit the resolution of the gentleman from Maryland, and for this reason: It is not in the proper form to be voted upon by us, as it merely expresses an opinion upon a bald question of law. We are not here as a moot court. We can refuse to recommend a measure because in our opinion it is unconstitutional; that is, our opinion may be the reason for our action, but it is not proper to ask us to vote for such a moot question of law as this. I may or I may not be of the same opinion as the gentleman from Maryland as to the law; but I think it is improper to vote, and I do not think the Association has any right to ask me to vote that it is my opinion, that a proposed measure is constitutional or is not constitutional. Such an opinion may be a good reason for voting against any recommendation, but as now presented it is not in proper form for a resolution to come before such a body as this.

Walter George Smith, of Pennsylvania:

We are not proposing to vote upon a moot question. We found ourselves in the position this morning, owing to the fact that the majority of the committee had not added to their report a formal resolution, of having the whole question of federal control of insurance before this Association on a printed report considered by a very able committee during the course of a whole year; and the proposition now before the house—

Hugh Gordon Miller, of Virginia:

It is not before us.

Walter George Smith:

I beg the gentleman's pardon, but I submit that it is before us. I do not believe, in view of what gentlemen most eminent in the profession have said, that a better presentation by a new committee of one side of the question can be submitted than

has been presented by this majority report. I think this Association will not be at any time in any better position to vote upon this subject than it is today after this debate and after the enlightenment it has received from the criticisms of very eminent lawyers. There is no desire on the part of those of us who believe in the views of the minority member of the committee to cut off any debate, nor to take any snap judgment, nor to decide any moot question, but we do feel that this is not a body whose dignity and weight should be trifled with, and it is trifled with when we are called upon to pass upon questions that have been decided by a long line of decisions of the Supreme Court of the United States. We are trenching on dangerous ground. A tendency has developed of late years to turn this body, formed for the benefit of the profession and for the extension of "the gladsome light of jurisprudence," into an advisory body on political subjects to the Congress of the United States. This tendency should be corrected. We have a wide field of usefulness within the limits fixed by our Constitution. I submit our committees ought not to go afield in order to throw the influence of this Association to the support of any special view of a question of political economy. Especially ought we to avoid any utterance, whatever our individual opinions may be, that would reverse doctrines long settled by the highest judicial authority in the land. It is entirely competent for us to dispose of this subject now, and we should do so, rather than leave it to take our time and attention at another session to the exclusion of other matters that are really within our province.

George Whitelock, of Maryland:

My preconceived views coincided with the views taken by the majority of the committee. I hope they will permit me to say that they are all intimate friends of mine—old friends—very old. Having read their report and having examined the decisions, I am obliged to dissent from their conclusions. Now it is because I believe that no lawyers in the United States could make a stronger presentation of the majority case than

Mr. Breckenridge and the majority of the committee, that I am in favor today of applying the doctrine of *stare decisis* and having the Association declare on the faith of the decisions of the Supreme Court of the United States that we shall go no further with federal supervision of insurance. Such is the reason for presenting the resolution which I have introduced.

Ernest T. Florance, of Louisiana:

Will Mr. Whitelock answer a question? What property right is involved that you appeal to the doctrine of *stare decisis?*

George Whitelock:

In view of the relations between the members of this committee and myself, it is hardly necessary to say that I have never had a thought that they were or could be influenced in any way in their conclusions except by the law as they conceived it to be; but unless we have a very clear legal right to make the proposed recommendation to Congress, I think we ought to have nothing to do with the politics of it, but leave the subject to congressional action if Congress should choose to take it up.

Henry C. Niles, of Pennsylvania:

I move the previous question.

The President:

The question is on the motion of the gentleman from Indiana.

William L. January, of Michigan:

I beg the Chair's pardon. The previous question has been moved.

The President:

The previous question is out of order; its call has never been usual in this body.

Ferdinand Shack, of New York:

I do not like to have the observation go unchallenged that this is a moot question. The President of the United States, in his message to Congress on December 6, 1904, expressed himself with regard to the vital topic of federal supervision

and used the following language: "I urge that the Congress carefully consider whether the power of the Bureau of Corporations cannot constitutionally be extended to cover interstate transactions in insurance." Surely, gentlemen, this is a live question. Surely you need not be told that at this hour there is no subject of greater concern to the American people than that of the conduct and management of insurance companies in recent years. We have further the assurance that the President of the United States looks to the American Bar to keep the people properly informed upon the legal phases of all public questions.

Theodore Sutro, of New York:

I hope this resolution will be committed to the committee. We have been an hour and a half debating the question whether this resolution shall be referred to this committee. How many hours would be required to settle the merits of the main question which has, by an evasion of the Constitution of this Association, been smuggled before us? I submit that there is other business still to be transacted. I have been stifled myself; I am anxious to make a report from a special committee.

The President:

The question is on the motion made by the gentleman from Indiana that the resolution of the gentleman from Maryland be referred to the incoming Committee on Insurance.

A vote was taken on the question and the result being in doubt a division was ordered, and the motion prevailed by a vote of one hundred and thirteen to twenty-nine.

The President:

Now, Mr. Sutro, you may have the floor to present the report of your committee.

Theodore Sutro:

I desire to present the report of the committee appointed upon the advisability of amending the Constitution providing for a standing committee on the subject of taxation.

(*See the Report in the Appendix.*)

The President:

The Chair would inquire whether there is anything in your report which contemplates a change in the Constitution?

Theodore Sutro:

Yes, sir, and also in the by-laws.

The President:

Of course a change of the Constitution requires a three-fourths vote.

William A. Ketcham, of Indiana:

This is an extremely important matter, and I move that the report of the committee and the resolution presented by the report be referred to the Executive Committee with instructions to report thereon at the earliest moment at the next meeting of the Association.

J. W. Green, of Kansas:

I second that motion.

Theodore Sutro:

I would like the Association to take into consideration the fact stated in this report that if this motion prevails this important matter will have to remain in abeyance for a whole year, whereas, if the resolution contained in the report is adopted now, this committee will be able to make a report at the next meeting of the Association. An amendment to the Constitution creating a Committee on Insurance Law was carried last year in precisely the same manner as this report suggests, and it is for that reason that I followed that precedent.

William A. Ketcham:

My practice has been largely along the line of considering these questions, and I think the report ought to go to the committee that will deal with it in a manner commensurate with its importance.

Edward Q. Keasbey, of New Jersey:

I think we may well refer this matter to the Executive Committee with power. I move, as an amendment, that the report be referred to the Executive Committee with power.

Ernest T. Florance, of Louisiana:

I rise to the point of order that the Executive Committee cannot be given power to amend the Constitution.

Edward Q Keasbey, of New Jersey:

I would like the ruling of the Chair on that point, because, if that is correct, I will withdraw my motion.

The President:

Undoubtedly the Executive Committee cannot change the Constitution, but the resolution which authorizes a change in the Constitution must be passed by a three-fourths vote of the members present. If the resolution goes to the Executive Committee, I take it that they have the power to pass upon the question.

The question will, therefore, first be upon the amendment of the gentleman from New Jersey that this matter be referred to the Executive Committee with power.

Arthur Steuart, of Maryland:

I should like to ask what is the object of referring this to the Executive Committee? The duties of the Executive Committee do not pertain to amending the Constitution, nor have they any power to act upon such a matter. Now, I think it is desirable that there should be a standing committee on this subject. The Executive Committee, while a standing committee, is not a committee to pass upon matters of law reform or recommendations in legislation.

William A. Ketcham:

I understand this is a resolution which, if the spirit is followed out by a committee—no matter what committee—will result in an amendment of our Constitution providing for an appropriate committee to consider such legislation. That is my understanding of the effect of the report, and I want that question, which is a graver question than insurance law or laws affecting equity jurisdiction in interstate commerce matters, to go to the highest committee that there is in the American Bar Association so that we may wisely prepare an amend-

ment to the Constitution of this organization which we may vote upon next year and give it a three-fourths majority vote, and not have a report come in here that has to be licked into shape after we get together.

Edward Q. Keasbey:

My motion was to amend the resolution so as to give the Executive Committee power to provide for that standing committee, but on reading Article X of the Constitution I find that it requires a three-fourths vote, and, in view of that, I do not think the Association can refer it to the Executive Committee with power. I therefore withdraw my motion to amend and ask that we decide the question now.

Ernest T. Florance:

Referring to the argument that has been made here that by reference to the Executive Committee a timely amendment may be suggested next year, it is utterly impossible to conceive what other amendment could possibly be made except to insert the words suggested in the report of the special committee. The only amendment you can make in order to create a committee on taxation is to insert the word "taxation," and we are to wait for a whole year to have the Executive Committee tell us if what we are to do is the proper thing. It seems to me that is an utter waste of time, and I submit that the critical question is, Do we want a committee to study this question of taxation or not?

John C. Richberg, of Illinois:

If it is desirable that a committee on taxation should be a permanent committee of this Association, we should pass upon it now; but if the matter is referred to the Executive Committee, we shall have no report for a year.

Theodore Sutro, of New York:

I hope this will not be referred to the Executive Committee. I think the gentleman from Louisiana has properly stated the position of the matter. There would really be nothing for the Executive Committee to consider. The only amendment that

can be made to the Constitution is to insert the words "On Taxation." We might just as well appoint a committee now as to wait for a whole year.

The President:

The question is on the motion of the gentleman from Indiana to refer this report to the Executive Committee.

The motion to refer was lost.

The President:

The question now recurs on the adoption of the report.

Henry H. Ingersoll, of Tennessee:

I wish to recall the minds of my brother lawyers to the purpose of the American Bar Association as stated in the Constitution: "Its object shall be to advance the science of jurisprudence, promote the administration of justice and uniformity of legislation throughout the union, uphold the honor of the profession of the law, and encourage cordial intercourse among the members of the American Bar." I think that we have strayed away from this purpose already too far, and I think we shall succeed better if we confine our discussions to subjects which are declared to be within the province and purpose of our organization. I do not like the efforts which are being made to enter the broad field of general legislation. I do not like the effort that I see to discuss questions of political economy and all other subjects which are not included within the purposes of the organization. Taxation! Think of bringing that subject before us lawyers to discuss every year. What may we not discuss if we are to take up such subjects? I submit that we ought not to add any more committees to our list of standing committees, and that the subject of taxation is one with which the Committee on Uniform State Laws is able to deal—whether they are willing to do so or not. This matter can be corrected only by uniform legislation.

Amasa M. Eaton, of Rhode Island:

In view of the fact that I am a member of this committee, I wish to make a brief explanation. It seems to me that such a

new committee would be strictly within the lines of our work, and it is expressly provided for by the words which the gentleman from Tennessee has read as one of the objects of this Association. There are many questions of taxation. We already have several of them, and some of them are referred to the Committee on Uniform State Laws; among other questions is taxation in one state of property in another state. That is one of the express objects of our Association, and it is therefore strictly in conformity with the purposes for which the Association is constituted that we ask for the appointment of a committee on this subject.

The question was submitted to a rising vote and, failing to receive the necessary three-fourths vote, was lost.

Robert D. Benedict, of New York:

I have an amendment which I desire to propose to the by-laws if it is in order.

The President:

It is in order.

Robert D. Benedict:

I move that by-law XII, the last clause of the third paragraph, be amended by adding the words "and a three-fourths vote of the Association." So that it will read: "No legislation shall be recommended or approved except upon the report of a committee and a three-fourths vote of the Association."

Charles Borcherling, of New Jersey:

I second that motion.

Frank Harvey Field, of New York:

I understand the effect of that amendment will be that there must be both the report of a committee and a three-fourths vote of the members present before any legislation can be recommended. In other words, we will tie our hands tightly in the line of the recommendation of legislation and will not be able to act by a majority. I do not think the gentleman intends to recommend such a thing as that.

The President:

Will the gentleman from New York put his resolution in writing?

William A. Ketcham, of Indiana:

While the gentleman from New York is putting his resolution in writing I would like to ask, Mr. President, if it would be in order to renew the motion to refer the report of the special committee appointed to consider the creation of a Committee on Taxation to the Executive Committee, without first making a motion to reconsider?

The President:

The Chair thinks not.

P. W. Meldrim, of Georgia:

I take the liberty of moving to reconsider, and for this reason: I think all amendments to our Constitution ought to be referred to the Executive Committee, and I ask the other members of the Association to join in voting to reconsider.

The President:

Does the gentleman from Georgia ask unanimous consent?

P. W. Meldrim:

I trust there will be no objection made to that course being followed.

Fabius H. Busbee, of North Carolina:

Having voted in the negative on that question, I will make the motion to reconsider, although I am in doubt whether we shall not throw more work on the Association by the creation of an additional committee than we can dispose of in a three days' session.

Edward Q. Keasbey, of New Jersey:

Does not this motion require a three-fourths vote?

The President:

The Chair thinks not. A motion to reconsider may be carried by a majority vote. The motion is that unanimous consent be given to reconsider the vote by which the house refused

to send the resolution of the gentleman from New York (Mr. Sutro) to the Executive Committee.

Ernest T. Florance, of Louisiana:

No, if the Chair will pardon me; the situation is this: You cannot take up the resolution reconsidering the vote refusing it, but you must first reconsider the vote by which the resolution of Mr. Sutro was lost, because otherwise you have nothing to recommit.

The President:

The Chair is ready to receive any motion, then.

William A. Ketcham, of Indiana:

There is a motion to reconsider the action of the Association refusing to refer the report to the Executive Committee.

The President:

But the Chair understands that objection is made.

Ernest T. Florance:

I am perfectly willing to give unanimous consent.

Fabius H. Busbee, of North Carolina:

Of course nothing can be done until something is before the house. The matter having been rejected, nothing is before the house. Having voted with the majority, I move to reconsider the vote by which it was lost with a view to allowing Mr. Meldrim to move to refer the report to the Executive Committee.

P. W. Meldrim, of Georgia:

I second that motion.

The motion to reconsider was adopted.

P. W. Meldrim:

I now move that the matter be referred to the Executive Committee to take its orderly course.

Amasa M. Eaton, of Rhode Island:

I second the motion.

The President:

The question is on the motion of the gentleman from Georgia that the report of the gentleman from New York (Mr. Sutro) be referred to the Executive Committee.

The motion to refer was adopted.

Robert D. Benedict, of New York:

I have now put in writing the resolution which I offered a few minutes ago. I move to amend by-law XII, paragraph 3, by adding these words: "and a two-thirds vote of the members of the Association present at an annual meeting."

Amasa M. Eaton, of Rhode Island:

I second it.

William Righter Fisher, of Pennsylvania:

Is it competent to vote upon an amendment to the by-laws offered at this meeting of which there has been no previous notice given?

Fabius H. Busbee, of North Carolina:

Mr. President, I move that that resolution be referred to the Executive Committee.

William Righter Fisher:

I second that motion.

The motion to refer was adopted.

Theodore Sutro, of New York:

I hold in my hand a letter from the County Judge of Saratoga County, New York, inviting the Association to meet at Saratoga next year.

The President:

The gentleman will kindly hand the letter to the Executive Committee. That committee fixes the time and place for holding the meetings.

M. F. Dickinson, of Massachusetts:

Mr. President, in view of some very interesting and instructive sentences uttered by the President of this Association in his admirable address, and also in view of what was said by

the gentleman who delivered the annual address upon the same subject, I desire to offer the following resolution:

Resolved, That a committee of five be appointed, of which the retiring President shall be Chairman, to report at the next meeting of this Association upon the advisability and practicability of the adoption of a code of professional ethics by this Association.

Amasa M. Eaton, of Rhode Island:

It gives me pleasure to second that resolution.

Raphael J. Moses, of New York:

I would suggest that it ought to be referred to the Executive Committee.

M. F. Dickinson, of Massachusetts:

I hope it will be adopted and not referred to the Executive Committee.

The resolution was adopted.

Willis B. Smith, of Virginia:

Ordinarily in associations of this character resolutions such as the one I am going to offer are not presented, but there are certain times when I think they are appropriate:

Resolved, That the American Bar Association desires to express to the President of the United States its unanimous approval of and admiration for his efforts to bring the blessings of peace to millions of homes abroad darkened and desolated by war, and it is hoped that he will continue to use his utmost endeavors to aid in every way possible those who are trying to end a war between two great nations which have always been friends of the American people.

I say that ordinarily this Association might hesitate, but in a matter of this character, in which I am sure the eyes of the world are looking to the President with hope, it does seem to me that it might unanimously pass this resolution.

James H. Brewster, of Michigan:

I second the adoption of that resolution.

William H. Mackoy, of Kentucky:

I do not think a resolution of that kind is germane to the purposes of this Association, no matter how praiseworthy it

may be, and although all of us may agree with the sentiments expressed in it.

Ernest T. Florance, of Louisiana:

I think there is a precedent for that. I remember at one of our meetings, after a long contest, the Association sent a cablegram to a very celebrated lawyer in France expressing our appreciation of his efforts in subserving the ends of justice, and I think if this Association could do that it certainly can adopt a resolution thanking the President of the United States for subserving the cause of peace throughout the world.

The President:

There is nothing in the Constitution or by-laws of the Association which would prevent the adoption of the resolution.

Ferdinand Shack, of New York:

I would suggest to the mover of the resolution that he add the authorization to the Secretary of this Association to apprise the President of the United States of this action.

Willis B. Smith, of Virginia:

I will add that.

The resolution was adopted.

The President:

Election of officers is now in order.

John C. Richberg, of Illinois:

I move that the Secretary cast the ballot of the Association for the election of the officers nominated.

Frederick C. Woodward, of Illinois:

I second the motion.

The motion was adopted.

The Secretary cast the vote of the Association as directed, and the officers named were elected.

(*See List of Officers.*)

The Association then adjourned *sine die.*

JOHN HINKLEY,
Secretary.

SECRETARY'S REPORT.

NARRAGANSETT PIER, RHODE ISLAND, August 23, 1905.

The report of the proceedings of our last meeting at St. Louis, Missouri, in August, 1904, has been printed and distributed to all members, and also to all State Bar Associations and legal journals and to a large number of libraries in the United States and abroad on our free mailing list.

There were two thousand members at the close of the last meeting. Thirty-four members have been elected by the Executive Committee between meetings under Article IV of the Constitution as amended.

The membership of the Association includes representatives from all of the states and the territories of Alaska, Arizona, Hawaii, Indian Territory, New Mexico and Oklahoma, and from the Philippine Islands.

Invitations were sent to all State Bar Associations to send three delegates to this meeting and to all City and County Bar Associations, in states having no State Bar Association, to send two delegates. There are thirty-eight State Bar Associations, four territorial Bar Associations, the Bar Association of the District of Columbia and about three hundred and eighty-six local Bar Associations.

The reports of the Committees on Insurance Law, Indian Legislation, Commercial Law relating to the bankruptcy law, the supplemental report of the minority of the Committee on Commercial Law relating to the subject matter of the 1904 report, the Committee on Patent, Trade-Mark and Copyright Law, relating to extension of patents, and report of the same committee relating to court of patent appeals, for this year have been printed and distributed to the members by mail fifteen days before the meeting. The report of the Committee on International Law has been printed for use at the meeting.

Notices were sent to all members of Standing and Special Committees requesting their attention to matters referred to such committees.

An invitation was received from the Librarian of Congress requesting the appointment of a delegate from this Association to a Conference on Copyright Legislation to be held in New York on May 31, 1905, which was referred to the President of the Association, who appointed Mr. Arthur Steuart, of Baltimore, as a delegate to the conference.

The Secretary regrets that the report of the proceedings for 1904 was not printed and distributed to the members at an earlier date, but asks the indulgent consideration by the members of the fact that the meeting of 1904 took place one month later than usual; that the volume has now grown to nearly a thousand pages, and that the report for 1904 embraces for the first time a number of new matters, including the proceedings of the Commissioners on Uniform State Laws and the Conference of State Boards of Law Examiners. The Secretary expresses the hope that the new portions of the report having been now formulated the printing of the proceedings in future may be somewhat expedited so that the bound volume can be delivered to members at an earlier date.

A register of those in attendance is kept in the reception room. Every member and delegate is requested to sign it as early as convenient. A list of those present will be printed for distribution at the meeting and will also be included in the report of the proceedings. There are copies of the Constitution, list of officers and members of committees, copies of committee reports and forms of nominations on the table for distribution.

The Secretary endeavors to keep the street addresses of all members, and members changing their addresses are requested to notify the Secretary.

Respectfully submitted,

JOHN HINKLEY,
Secretary.

TREASURER'S REPORT.

1904–1905.

Dr.

To cash on hand—Date of last report, ...		$6,842 92
" " received—Dues of members for the year 1884, (1), ...	$5 00	
" " " —Dues of members for the year 1885, (1), ...	5 00	
" " " —Dues of members for the year 1886, (1), ...	5 00	
" " " —Dues of members for the year 1896, (1), ...	5 00	
" " " —Dues of members for the year 1903, (12), ...	60 00	
" " " —Dues of members for the year 1904, (67), ...	335 00	
" " " —Dues of members for the year 1905, (1782), ...	8,910 00	
" " " —Dues of members for the year 1906, (24), ...	120 00	9,445 00
" " " —Sale of Transactions, ...		65 50
" " " —Albany Trust Company, interest on daily balances, ...		42 77
Total receipts, ...		$16,396 19

Cr.

1904. Sept. 26.	By cash paid—Charles A. Morrison, Stenographer, for services in reporting proceedings of Committee on Uniform State Laws, Sept. 22-24, 1904, . . .	125 00	
	Amount carried forward, . . .	$125 00	$16,396 19

1904.	By amount brought forward, . .	$125 00	$16,396 19
Sept. 27.	By cash paid—Committee on Louisiana Purchase Exposition, pursuant to the direction of the Executive Committee (see report of Executive Committee, page 74, vol. 27, Reports of American Bar Asso.), .	2,500 00	
Oct. 7.	" " " —C. A. Morrison, Stenographer, reporting proceedings of 27th Annual Meeting and meeting of Section of Legal Education, ...	241 25	
17.	" " " —Samuel Williston, on account Committee on Uniform State Laws, services in drafting Uniform Sales Act, . .	150 00	
22.	" " " —John Hinkley, Secretary, to refund his disbursements for clerical assistance, printing, stationery, postage, traveling expenses of clerk, etc., ...	1,023 48	
25.	" " " —Expenses of Edward Kaestner, Treasurer's clerk, to St. Louis, attending 27th Annual Meeting, ...	82 90	
Nov. 23.	" " " —Dando Printing and Publishing Company, for printing reports of committees, etc., Sept. 19-23, ...	138 75	
	Amount carried forward, . . .	$4,261 38	$16,396 19

1904.	By amount brought forward, . .	$4,261 38	$16,396 19
Nov. 23.	By cash paid—National Press Intelligence Co. for newspaper clippings from Jan. 1, to Oct. 31, 1904, . . .	17 90	
28.	" " " —Frederick E. Wadhams, expenses to Narragansett Pier to examine hotel accommodations,	37 60	
28.	" " " —Frederick E. Wadhams, expenses to New York to see S. W. Mathewson, proprietor New Mathewson, ...	11 35	
Dec. 28.	" " " —Frederick E. Wadhams, expenses to Buffalo to examine steamers Northland and North West to determine availability for meeting,	26 74	
1905. Jan. 9.	" " " —P. W. Meldrim, Savannah, Ga., expenses attending meeting of Executive Committee at Washington, January 4, 1905, ...	69 25	
9.	" " " —Frederick E. Wadhams, expenses attending meeting of Executive Committee at Washington, January 4, 1905, .	32 35	
12.	" " " —William P. Breen, Fort Wayne, Ind., expenses attending meeting of Executive Committee at Washington, January 4, 1905, ...	59 50	
	Amount carried forward, . . .	$4,516 07	$16,396 19

1905.	By amount brought forward, . .	$4,516 07	$16,396 19
Jan. 20.	By cash paid—M. F. Dickinson, Boston, Mass., expenses attending meeting of Executive Committee at Washington, January 4, 1905, ...	43 00	
30.	" " " —Francis B. James, Treasurer Committee on Uniform State Laws, to apply on account services rendered by Prof. Samuel Williston, ...	500 00	
Feb. 2.	" " " —Charles E. Hughes, New York, expenses as delegate to meeting of Montreal Bar at Montreal, Canada, ...	22 45	
22.	" " " —Rodney A. Mercur, Towanda, Pa., expenses attending meeting of Committee on Insurance Law at Washington, Jan. 23-28, 1905, .	65 42	
22.	" " " —Burton Smith, Atlanta, Ga., expenses attending meeting of Committee on Insurance Law at Washington, January 23-28, 1905, ...	78 00	
22.	" " " —Ralph W. Breckenridge, Omaha, Neb., expenses attending meeting of Committee on Insurance Law at Washington, January 23-28, 1905, and incidental trips to Chicago, Hartford, New York, etc., ...	180 00	
	Amount carried forward, . . .	$5,404 94	$16,396 19

1905.	By amount brought forward, . .	$5,404 94	$16,396 19
Feb. 22.	By cash paid—Lew W. Raber, Omaha, Neb., printing letter heads and blank sheets for Committee on Insurance Law, ...	6 00	
Mar. 2.	" " " —Wm. F. Murphy's Sons Co. for two receipt books for Treasurer's use, . .	13 25	
2.	" " " —National Press Intelligence Co. for newspaper clippings from Nov. 1, 1904, to Feb. 28, 1905,	4 60	
Apr. 6.	" " " —Lew W. Raber, Omaha, Neb., printing 250 circulars for Committee on Insurance Law, ...	4 00	
10.	" " " —Addressograph Company, Chicago, for plates furnished Treasurer for addressing machine chains, ...	7 54	
May 19.	" " " —Postmaster, Albany, N. Y., 4000 2c. stamped envelopes, for sending out notices of dues to members and receipts,	85 60	
31.	" " " —Expenses of the following members in attending meeting of Com. on Patent, Trade-Mark and Copyright Law at Washington at various dates, and disbursements incurred by the several members in connection with printing, clerk hire, etc , for that Com.:		
	Edmund Wetmore, . .	56 70	
	W. C. Strawbridge, . .	17 00	
	R. S. Taylor, ...	140 45	
	Arthur Steuart, . . .	119 55	
	Amount carried forward, . . .	$5,859 63	$16,396 19

1905.	By amount brought forward, . .	$5,859 63	$16,396 19
May 31.	By cash paid—J. Crawford Biggs, Durham, N. C., expenses in attending meeting Com. on Legal Education in Washington, May 12-13, 1905, ...	35 75	
June 10.	" " " —Secretary of Commonwealth of Pa., set of advance sheet laws 1905 for Pres. Tucker's use, .	2 00	
10.	" " " —George M. Sharp, Baltimore, chairman Com. on Legal Education, expenses in connection with that committee, .	99 35	
21.	" " " —Ralph W. Breckenridge, bill of May H. Finley, stenographer, for services Committee on Insurance Law, ...	40 00	
July 7.	" " " —Postmaster at Albany for 2000 2c. stamped envelopes for Secretary Hinkley's use in sending out programme, ...	42 40	
24.	" " " —Postmaster at Albany for 1000 stamped envelopes for sending out notices of dues, receipts, etc., .	21 40	
26.	" " " —F. W. Palmer, Public Printer, Washington, D. C., for 2200 copies government documents to accompany report of Committee on Patent, Trade-Mark and Copyright Law, ...	86 20	
	Amount carried forward, . . .	$6,186 73	$16,396 19

1905.	By amount brought forward, . .	$6,186 73	$16,396 19
July 26.	By cash paid—Argus Co., Albany, for printing envelopes, notices of dues, cards, circulars, etc., from March 30 to July 31, 1905, ...	31 50	
Aug. 4.	" " " —George M. Sharp for disbursements in connection with Committee on Legal Education from May 6 to July 18, 1905, ...	34 20	
8.	" " " —H. St. George Tucker to refund his disbursements for stenographer in preparing President's address, and for telegrams, etc., ...	51 13	
8.	" " " —Beck & Phelan, typewriting for Committee on International Law, .	3 60	
8.	" " " —Henry C. Esling to refund his disbursements in boxing, labeling and preparing for shipment report for 1904, and delivering reports in Philadelphia, Pa., . .	27 95	
9.	" " " —Dando Printing and Publishing Company, Philadelphia, bill for printing annual report,	3,346 63	
9.	" " " —Dando Printing and Publishing Company for miscellaneous printing from October 31, 1904, to July 31, 1905,	683 33	
	Amount carried forward, . . .	$10,365 07	$16,396 19

1905.	By amount brought forward, . .	$10,365 07	$16,396 19
Aug. 17.	By cash paid—Frederick E. Wadhams, traveling expenses to Washington, D. C., April 10 and 11, to confer with President Tucker and Mr. Hinkley about annual meeting; to New York May 16 and 17 to secure papers for annual meeting; to Lenox, Mass., August 3, and August 5, 6 and 7 to Narragansett Pier and New York to complete arrangements for meeting and confer with President Tucker; to Portsmouth, N. H., August 20 and 21, to invite Peace Envoys and their attorneys to attend annual meeting, ...	106 15	
17.	" " " —United States Express Company, bill for shipping report for 1904 to members, ...	654 27	
17.	" " " —Dando Printing and Publishing Company printing reports of various committees August 4, 1905, ...	196 50	
17.	" " " —By cash Edward Kaester for services as Treasurer's clerk from August 28, 1904, to August 28, 1905, ...	400 00	
	Amount carried forward, . . .	$11,721 99	$16,396 19

By amount brought forward, . .	$11,721 99	$16,396 19
By cash paid—For stamps, telegrams, telephone, Treasurer's office supplies, etc., for the year, ...	62 50	
Total disbursements, .	$11,784 49	$16,396 19

Total receipts, ...	$16,396 19
Total disbursements, ...	11,784 49
Balance, ...	$4,611 70

Which balance consists of—

Amount to credit of Treasurer in Albany Trust Company, Albany, N. Y., ...	4,569 95
Cash on hand, ...	41 75
	$4,611 70

Respectfully submitted,

FREDERICK E. WADHAMS,

Treasurer.

Dated NARRAGANSETT PIER, R. I., *Aug. 23, 1905.*

Audited and found correct.

RICHARD BERNARD,
W. A. KETCHAM,
Auditing Committee.

REPORT

OF THE

EXECUTIVE COMMITTEE.

NARRAGANSETT PIER, RHODE ISLAND, August 23, 1905.

The Executive Committee respectfully report that under the last clause of Article IV of the Constitution, providing for the election of members by the Executive Committee between meetings when nominated by a majority of the Vice-President and Local Council, the following thirty-four members were elected.

(*See List at end of List of New Members.*)

Your Committee further report that, in accordance with the 12th by-law, appropriations were made for the use of the committees for the year 1904–1905, on their application, not exceeding the following amounts:

$250 to Committee on Legal Education and Admissions to the Bar.

$400 to Committee on Insurance Law.

$225 to Committee on International Law.

$250 to Committee on Patent, Trade-Mark and Copyright Law.

$750 to Committee on Uniform State Laws.

$250 to Committee on Classification of the Law.

$200 to Committee on Penal Laws and Prison Discipline.

Two matters were referred to the Executive Committee at the last meeting and have been considered by your committee:

1. The proposed amendment to the by-laws relating to the appointment of a Reception Committee, which will be found on page 56 of the proceedings of 1904. The Executive Committee recommend the amendment of the proposed by-law by inserting after the words "appointed annually" the words

"by the President," and recommend the passage of the amendment to the by-laws to read as follows:

"There shall be appointed annually by the President a committee to be known as the Reception Committee, consisting of fifteen members of the Association, whose duty it shall be to attend immediately before and at the opening of the first day's session of the meeting to receive members and delegates and introduce them to each other, with a view of making them better acquainted and establishing a spirit of good fellowship among them."

2. The proposed amendment to the by-laws relating to committee reports, which will be found on page 57 of the proceedings of 1904, providing, substantially, that committee reports shall be forwarded to the Secretary twenty days before the annual meeting and printed and distributed by him to all members at least ten days before the annual meeting. The Executive Committee are of opinion that the present by-law requiring the advance distribution to members to be made fifteen days before the meeting with the implied necessity of placing the reports in the hands of the Secretary a sufficient time in advance of the fifteen day limit to enable him to print them, sufficiently accomplishes the purpose desired and that no amendment to the by-law is necessary.

All committees for the ensuing year whose work may entail expense are requested to conform to the 12th by-law, which requires "previous application in advance of expenditure," such application to be made to the Executive Committee through the Secretary.

Respectfully submitted,

HENRY ST. GEO. TUCKER,
JAMES HAGERMAN,
JOHN HINKLEY,
FREDERICK E. WADHAMS,
PETER W. MELDRIM,
M. F. DICKINSON,
THEODORE S. GARNETT,
WILLIAM P. BREEN,
Executive Committee.

MEMBERS AND DELEGATES REGISTERED

AT THE

TWENTY-EIGHTH ANNUAL MEETING.

1905.

HENRY ST. GEORGE TUCKER, ... Virginia.
President.

JOHN HINKLEY, ... Maryland.
Secretary.

FREDERICK E. WADHAMS, ... New York.
Treasurer.

JAMES HAGERMAN, ... Missouri.
P. W. MELDRIM, ... Georgia.
M. F. DICKINSON, ... Massachusetts.
THEODORE S. GARNETT, ... Virginia.
WILLIAM P. BREEN, ... Indiana.
Executive Committee.

ALABAMA.

BROMBERG, FREDERICK G., ... Mobile.
COOPER, LAWRENCE, ... Huntsville.
HARRISON, GEORGE P., ... Opelika.
HUNDLEY, OSCAR R., ... Huntsville.
LONDON, ALEX. T., ... Birmingham.
ROULHAC, THOMAS R., ... Sheffield.
THOMAS, WILLIAM H., ... Montgomery.

ARKANSAS.

ADAMSON, W. C., ... Little Rock.
ARNOLD, W. H., ... Texarkana.
CANTRELL, DEADERICK H., ... Little Rock.
COCKRILL, ASHLEY, ... Little Rock.
FLETCHER, JOHN, ... Little Rock.
HUGHES, ALLEN, ... Jonesboro.
ROSE, GEORGE B., ... Little Rock.
STAYTON, JOSEPH M., ... Newport.

CALIFORNIA.

HELM, LYNN, ... Los Angeles.
MONROE, CHARLES, ... Los Angeles.

CONNECTICUT.

HARRIMAN, E. A., ... New Haven.
HARRISON, LYNDE, ... New Haven.
ROBBINS, EDWARD D., ... Hartford.
ROGERS, HENRY WADE, ... New Haven.
RUSSELL, TALCOTT H., ... New Haven.
STANTON, LEWIS E., ... Hartford.
WATROUS, GEORGE D., ... New Haven.
WEBB, JAMES H., ... New Haven.
WHITE, HENRY C., ... New Haven.

DISTRICT OF COLUMBIA.

BROWNE, ALDIS B., ... Washington.
CHURCH, MELVILLE, ... Washington.
DOWELL, JULIAN C., ... Washington.
EDSON, JOSEPH R., ... Washington.
MCCAMMON, JOSEPH K., ... Washington.
MCGILL, J. NOTA, ... Washington.
NEEDHAM, CHARLES W., ... Washington.
ROGERS, WALTER F., ... Washington.
WALTON, CLIFFORD S., ... Washington.

FLORIDA.

CLARKSON, WALTER B., ... Jacksonville.
WILLIAMS, R. W., ... Tallahassee.

GEORGIA.

MELDRIM, P. W., ... Savannah.
MERRILL, J. H., ... Thomasville.
WIMBISH, W. A., ... Atlanta.

ILLINOIS.

BANCROFT, EDGAR A., ... Chicago.
DICKINSON, J. M., ... Chicago.
EASTMAN, SIDNEY C., ... Chicago.
HALL, JAMES P., ... Chicago.
KRAMER, EDW. C., ... East St. Louis.
MUSGRAVE, HARRISON, ... Chicago.
NORTHRUP, ELLIOTT J., ... Urbana.

ILLINOIS—Continued.

PAGE, GEORGE T., ... Peoria.
PECK, GEORGE R., ... Chicago.
RICHBERG, JOHN C., ... Chicago.
WOODWARD, FREDERIC C., ... Chicago.

INDIANA.

BREEN, WILLIAM P., ... Fort Wayne.
DAVIS, THEODORE P., ... Indianapolis.
EWING, JOHN G., ... Notre Dame.
FRASER, DANIEL, ... Fowler.
HAWKINS, MORTON S., ... Indianapolis.
KETCHAM, W. A., ... Indianapolis.
MORRIS, JOHN, ... Fort Wayne.
NEWBERGER, LOUIS, ... Indianapolis.
REINHARD, GEORGE L., ... Bloomington.
RUPE, JOHN L., ... Richmond.
SIMMS, DAN W., ... Lafayette.
STEVENSON, ELMER E., ... Indianapolis.
TAYLOR, R. S., ... Fort Wayne.

IOWA.

CROSBY, JAMES O., ... Garnavillo.
DEERY, JOHN, ... Dubuque.
DUDLEY, C. A., ... Des Moines.
GREGORY, CHARLES NOBLE, ... Iowa City.
SWISHER, A. E., ... Iowa City.

KANSAS.

CONANT, ERNEST B., ... Topeka.
GREEN, J. W., ... Lawrence.
STONECKER, J. G., ... Topeka.

KENTUCKY.

BULLITT, WM. MARSHALL, ... Louisville.
COX, ATTILLA, JR., ... Louisville.
MACKOY, W. H., ... Covington.

LOUISIANA.

FLORANCE, ERNEST T., ... New Orleans.
HART, W. O., ... New Orleans.

MAINE.

EMERY, LUCILIUS A., ... Ellsworth.
LIBBY, CHARLES F., ... Portland.
WALZ, W. E., ... Bangor.

MARYLAND.

Bernard, Richard, ... Baltimore.
Briscoe, John P., ... Prince Frederick.
Carter, Charles H., ... Baltimore.
Gill, John, Jr., ... Baltimore.
Hinkley, John, ... Baltimore.
Howard, Charles Morris, ... Baltimore.
Morris, Thomas J., ... Baltimore.
Niles, Alfred S., ... Baltimore.
Poe, John Prentiss, ... Baltimore.
Robertson, Alexander H., ... Baltimore.
Sharp, George M., ... Baltimore.
Steuart, Arthur, ... Baltimore.
Whitelock, George, ... Baltimore.
Young, John S., ... Bel Air.

MASSACHUSETTS.

Appleton, John H., ... Boston.
Ayers, George D., ... Newton.
Barnes, Charles B., Jr., ... Boston.
Beale, Joseph H., Jr., ... Boston.
Bennett, Samuel C., ... Boston.
Brewer, D. Chauncey, ... Boston.
Chamberlayne, Charles F., ... Bourne.
Cunningham, Frederic, ... Brookline.
Cunningham, Henry V., ... Boston.
Dewey, Henry S., ... Boston.
Dickinson, M. F., ... Boston.
Fall, George Howard, ... Malden.
French, Asa P., ... Boston.
Friedman, Lee M., ... Boston.
Gargan, Thomas J., ... Boston.
Hale, Richard W., ... Boston.
Hemenway, Alfred, ... Boston.
Innes, Charles H., ... Boston.
Jones, Leonard A., ... Boston.
Kellen, Wm. Vail, ... Boston.
McLaughlin, John D., ... Boston.
Proctor, Thomas W., ... Boston.
Sawyer, Alfred P., ... Lowell.
Schofield, William, ... Malden.
Shepard, Harvey N., ... Boston.
Spring, Arthur L., ... Boston.

MASSACHUSETTS—Continued.

STOREY, MOORFIELD, ... Boston.
WAMBAUGH, EUGENE, ... Cambridge.
WILLISTON, SAMUEL, ... Belmont.
WYMAN, HENRY A., ... Boston.
YOUNG, ELVA H., ... Springfield.

MICHIGAN.

BATES, HENRY M., ... Ann Arbor.
BREWSTER, JAMES H., ... Ann Arbor.
JANUARY, WILLIAM L., ... Detroit.
MOORE, JOSEPH B., ... Lansing.
WILGUS, H. L., ... Ann Arbor.

MINNESOTA.

BROWN, FREDERICK V., ... Minneapolis.
BROWN, ROME G., ... Minneapolis.
JAGGARD, EDWIN A., ... St. Paul.
MASON, ALFRED F., ... St. Paul.
RANDALL, HENRY E., ... St. Paul.

MISSISSIPPI.

BOWERS, E. J., ... Bay St. Louis.

MISSOURI.

ALLEN, CHARLES CLAFLIN, ... St. Louis.
BARCLAY, SHEPARD, ... St. Louis.
CHRISTIE, HARVEY L., ... St. Louis.
EARLY, M. C., ... St. Louis.
FINKELNBURG, G. A., ... St. Louis.
HADLEY, HERBERT S., ... Jefferson City.
HAGERMAN, JAMES, ... St. Louis.
HAGERMAN, LEE W., ... St. Louis.
JOURDAN, MORTON, ... St. Louis.
JUDSON, FREDERICK N., ... St. Louis.
KLEIN, JACOB, ... St. Louis.
LEE, JOHN F., ... St. Louis.
LEHMANN, F. W., ... St. Louis.
PORTER, V. MOTT, ... St. Louis.
REYNOLDS, TOM H., ... Kansas City.
ROBERTS, V. H., ... Columbia.
SPENCER, SELDEN P., ... St. Louis.

NEBRASKA.

Breckenridge, Ralph W., ... Omaha.
Dundey, Charles L., ... Omaha.
Van Dusen, James H., ... Omaha.
Webster, John Lee, ... Omaha.

NEW HAMPSHIRE.

Chase, Ira A., ... Bristol.
Fellows, J. W., ... Manchester.

NEW JERSEY.

Bergen, J. J., ... Somerville.
Borcherling, Charles, ... Newark.
Keasbey, Edward Q., ... Newark.
Lyon, Adrian, ... Perth Amboy.
McCarter, Robert H., ... Newark.
Parker, Chauncey G., ... Newark.
Riker, Adrian, ... Newark.
Strong, Alan H., ... New Brunswick.
Swayze, F. J., ... Newark.
Woodruff, R. S., ... Trenton.

NEW YORK.

Andrews, James D., ... New York.
Beck, James M., ... New York.
Benedict, Robert D., ... New York.
Butler, Charles Henry, ... New York.
Countryman, E., ... Albany.
Danaher, F. M., ... Albany.
Davis, Henry K., ... New York.
Duell, Charles H., ... New York.
Estabrook, Henry D., ... New York.
Field, Frank Harvey, ... New York.
Fiero, J. Newton, ... Albany.
Gifford, Livingston, ... New York.
Hand, Richard L., ... Elizabethtown.
Hirschberg, Henry, ... Newburgh.
Hotchkiss, William H., ... Buffalo.
Irvine, Frank, ... Ithaca.
Landon, Judson S., ... Schenectady.
Logan, Walter S., ... New York.
Mack, William, ... New York.
Miller, Hugh Gordon, ... New York.
Morse, Waldo G., ... New York.

NEW YORK—Continued.

Moses, Raphael J., ... New York.
McCrary, A. J., ... Binghamton.
McIntosh, James H., ... New York.
McLaughlin, Frederick C., ... New York.
McNulty, William D., ... New York.
Russell, Wm. Hepburn, ... New York.
Shack, Ferdinand, ... New York.
Sutro, Theodore, ... New York.
Tompkins, Hamilton B., ... New York.
Wadhams, Frederick E., ... Albany.
Wheeler, Everett P., ... New York.
Wetmore, Edmund, ... New York.
Whitney, Edward B., ... New York.
Wilcox, Ansley, ... Buffalo.
Winslow, Wm. Beverly, ... New York.
Wollman, Henry, ... New York.

NORTH CAROLINA.

Andrews, A. B., Jr., ... Raleigh.
Biggs, J. Crawford, ... Durham.
Busbee, F. H., ... Raleigh.
Davidson, Theodore F., ... Asheville.

NORTH DAKOTA.

Bruce, Andrew A., ... Grand Forks.

OHIO.

Follett, Martin Dewey, ... Marietta.
James, Francis B., ... Cincinnati.
King, E. B., ... Sandusky.
Maxwell, Lawrence, Jr., ... Cincinnati.
Robertson, C. D., ... Cincinnati.
Rogers, W. P., ... Cincinnati.
Van Deman, John N., ... Dayton.

PENNSYLVANIA.

Alexander, Lucien H., ... Philadelphia.
Ashhurst, Richard L., ... Philadelphia.
Colahan, J. B., Jr., ... Philadelphia.
Duane, Russell, ... Philadelphia.
Fisher, Wm. Righter, ... Philadelphia.
Futrell, William H., ... Philadelphia.

PENNSYLVANIA—Continued.

GRAY, JAMES C., ... Pittsburgh.
GRIFFITH, WARREN G., ... Philadelphia.
KANE, FRANCIS FISHER, ... Philadelphia.
LAMBERTON, JAMES M., ... Harrisburg.
LEWIS, WM. DRAPER, ... Philadelphia.
MERCUR, RODNEY A., ... Towanda.
MIKELL, WILLIAM E., ... Philadelphia.
MILLER, E. SPENCER, ... Philadelphia.
MINER, S. R., ... Wilkes Barre.
NICHOLS, H. S. PRENTISS, ... Philadelphia.
NILES, HENRY C., ... York.
RAWLE, FRANCIS, ... Philadelphia.
RUHL, C. H., ... Reading.
SMITH, WALTER GEORGE, ... Philadelphia.
STAAKE, WILLIAM H., ... Philadelphia.
STEELE, H. J., ... Easton.
STEWART, R. C., ... Easton.
SWEARINGEN, J. M., ... Pittsburgh.
THOMPSON, A. M., ... Pittsburgh.

RHODE ISLAND.

BAKER, ALBERT A., ... Providence.
BAKER, DARIUS, ... Newport.
CURTIS, HARRY C., ... Providence.
EATON, AMASA M., ... Providence.
EDWARDS, SEEBER, ... Providence.
HOGAN, J. W., ... Providence.
JENCKES, THOMAS A., ... Providence.
LYMAN, RICHARD E., ... Providence.
STEARNS, CHARLES F., ... Providence.
TILLINGHAST, JAMES, ... Providence.

SOUTH CAROLINA.

MOORE, M. H., ... Columbia.
MOWER, GEORGE S., ... Newberry.
WILLCOX, P. A., ... Florence.

SOUTH DAKOTA.

TRIPP, BARTLETT, ... Yankton.

TENNESSEE.

HOLMAN, J. H., ... Fayetteville.
INGERSOLL, HENRY H., ... Knoxville.
SANFORD, EDWARD T., ... Knoxville.

TEXAS.

Burges, William H., ... El Paso.
Ogden, Charles W., ... San Antonio.

VIRGINIA.

Cocke, Lucian H., ... Roanoke.
Garnett, Theodore S., ... Norfolk.
Griffin, S., ... Bedford City.
Hughes, Robert M., ... Norfolk.
Patteson, S. S. P., ... Richmond.
Prentis, Robert R., ... Suffolk.
Smith, Willis B., ... Richmond.
Stern, Jo. Lane, ... Richmond.
Tucker, H. St. George, ... Lexington.
Vance, William R., ... Charlottesville.

WASHINGTON.

Shepard, Charles E., ... Seattle.

WEST VIRGINIA.

Davis, D. C. T., Jr., ... Lewisburg.
Price, George E., ... Charleston.

WISCONSIN.

Jones, Burr W., ... Madison.
Richards, H. S., ... Madison.

Total registered, 277.

DELEGATES, 1905.

ALABAMA STATE BAR ASSOCIATION.

FREDERICK G. BROMBERG, ... Mobile.
EMMET O'NEAL, ... Florence.
ROBERT E. STEINER, ... Montgomery.

BAR ASSOCIATION OF ARKANSAS.

JOSEPH W. HOUSE, ... Little Rock.
CHARLES T. COLEMAN, ... Little Rock.
W. H. ARNOLD, ... Texarkana.

COLORADO BAR ASSOCIATION.

PLATT ROGERS, ... Denver.

FLORIDA.

JACKSONVILLE BAR ASSOCIATION.

WALTER B. CLARKSON, ... Jacksonville.

ILLINOIS STATE BAR ASSOCIATION.

GEORGE R. PECK, ... Chicago.
EDGAR A. BANCROFT, ... Chicago.
JAMES T. RAINEY, ... Chicago.

STATE BAR ASSOCIATION OF INDIANA.

JOHN L. RUPE, ... Richmond.
SAMUEL R. HAMILL, ... Terre Haute.
MORTON S. HAWKINS, ... Indianapolis.

BAR ASSOCIATION OF THE STATE OF KANSAS.

JAMES T. HERRICK, ... Wellington.
W. G. HOLT, ... Kansas City.
J. G. SLONECKER, ... Topeka.

KENTUCKY STATE BAR ASSOCIATION.

D. L. THORNTON, ... Versailles.
JOHN S. KELLEY, ... Bardstown.
LUTHER C. WILLIS, ... Shelbyville.

LOUISIANA BAR ASSOCIATION.

W. S. PARKERSON, ... New Orleans.
JAMES MCCONNELL, ... New Orleans.
ANDREW H. WILSON, ... New Orleans.

MAINE STATE BAR ASSOCIATION.

CHARLES F. LIBBY, ... Portland.
HANNIBAL E. HAMLIN, ... Ellsworth.
GEORGE C. WING, ... Auburn.

MARYLAND STATE BAR ASSOCIATION.

RICHARD BERNARD, ... Baltimore.
ALEXANDER H. ROBERTSON, ... Baltimore.
JOHN S. YOUNG, ... Bel Air.

MASSACHUSETTS.

BAR ASSOCIATION OF THE CITY OF BOSTON.

FREDERIC CUNNINGHAM, ... Boston.
CHARLES S. GREENOUGH, ... Boston.

HAMPDEN BAR ASSOCIATION.

EDWARD H. LATHROP, ... Springfield.
ELVA H. YOUNG, ... Springfield.

FRANKLIN COUNTY BAR ASSOCIATION.

SAMUEL D. CONANT, ... Greenfield.
BURT H. WINN, ... Greenfield.

HAVERHILL BAR ASSOCIATION.

FRANCIS H. PEARL, ... Haverhill.
ROBERT B. BREWSTER, ... Haverhill.

BAR ASSOCIATION OF NORFOLK COUNTY.

THOMAS E. GROVER, ... Boston.
ASA P. FRENCH, ... Boston.

MICHIGAN STATE BAR ASSOCIATION.

ADOLPH SLOMAN, ... Detroit.
WILLIAM L. JANUARY, ... Detroit.
A. J. MILLS, ... Kalamazoo.

MISSOURI BAR ASSOCIATION.

JOHN D. LAWSON, ... Columbia.
SANFORD B. LADD, ... Kansas City.
JOHN F. LEE, ... St. Louis.

NEBRASKA STATE BAR ASSOCIATION.

John B. Barnes, ... Norfolk.
T. H. Matters, ... Harvard.
F. M. Hall, ... Lincoln.

NEW YORK STATE BAR ASSOCIATION.

Alton B. Parker, ... New York.
Judson S. Landon, ... Schenectady.
Edwin Countryman, ... Albany.

NORTH CAROLINA BAR ASSOCIATION.

James E. Boyd, ... Greensboro.
Theodore F. Davidson, ... Asheville.
Charles M. Cooke, ... Louisburg.

BAR ASSOCIATION OF NORTH DAKOTA.

J. H. Board, ... Grand Forks.
James M. Austin, ... Ellendale.
Seth Newman, ... Fargo.

OHIO STATE BAR ASSOCIATION.

John W. Herron, ... Cincinnati.
John N. Van Deman, ... Dayton.
Thomas H. Hogsett, ... Cleveland.

OREGON BAR ASSOCIATION.

O. F. Paxton, ... Portland.
C. E. S. Wood, ... Portland.

PENNSYLVANIA BAR ASSOCIATION.

Christian H. Ruhl, ... Reading.
Joseph M. Swearingen, ... Pittsburgh.
George S. Schmidt, ... York.

SOUTH CAROLINA BAR ASSOCIATION.

George S. Mower, ... Newberry.
M. Herndon Moore, ... Columbia.

BAR ASSOCIATION OF TENNESSEE.

J. H. Holman, ... Fayetteville.

VERMONT BAR ASSOCIATION.

Samuel E. Pingree, ... Hartford.
Cornelius S. Palmer, ... Burlington.
Joseph P. Lamson, ... Cabot.

VIRGINIA STATE BAR ASSOCIATION.

Lucien H. Cocke, ... Roanoke.
S. S. P. Patteson, ... Richmond.
S. Griffin, ... Bedford City.

WASHINGTON STATE BAR ASSOCIATION.

C. H. Hanford, ... Seattle.
Milo Root, ... Olympia.
Charles E. Shepard, ... Seattle.

STATE BAR ASSOCIATION OF WISCONSIN.

Burr W. Jones, ... Madison.
Alexander E. Matheson, ... Janesville.

LIST OF MEMBERS ELECTED.

ALABAMA.

Bromberg, Frederick G., ... Mobile.

ARKANSAS.

Adamson, W. C., ... Little Rock.
Arnold, William H., ... Texarkana.

CALIFORNIA.

Graff, M. L., ... Los Angeles.
Lawler, Oscar, ... Los Angeles.
Van Dyke, Henry S., ... Los Angeles.
Wilson, Percy R., ... Los Angeles.

CONNECTICUT.

Wright, William A., ... New Haven.

DISTRICT OF COLUMBIA.

Mohun, Barry, ... Washington.
Rogers, Walter F., ... Washington.
Spear, Ellis, ... Washington.

FLORIDA.

Baker, Robert A., ... Jacksonville.
Bryan, Nathan P., ... Jacksonville.
Bryan, William James, ... Jacksonville.

ILLINOIS.

Bethea, Solomon H., ... Chicago.
Kramer, Edward C., ... East St. Louis.

INDIANA.

Haywood, George P., ... Lafayette.

IOWA.

Holsman, Henry B., ... Guthrie Center.

KANSAS.

Slonecker, J. G., ... Topeka.

KENTUCKY.

MACKOY, HARRY BRENT, ... Covington.
ROUSE, SHELLEY D., ... Covington.

LOUISIANA.

LEAKE, HUNTER C., ... New Orleans.

MARYLAND.

CARR, JAMES EDWARD, JR., ... Baltimore.
CARTER, CHARLES H., ... Baltimore.
GILL, JOHN, JR., ... Baltimore.
SMITH, ROBERT H., ... Baltimore.
TURNER, FRANK G., ... Baltimore.
YOUNG, JOHN S., ... Bel Air.

MASSACHUSETTS.

AYERS, GEORGE D., ... Newton.
*BRAMAN, GRENVILLE D., ... Boston.
BLODGETT, EDWARD E., ... Boston.
BREWER, DANIEL CHAUNCEY, ... Boston.
CHAMBERLAYNE, CHARLES F., ... MonumentBeach
COAKLEY, DANIEL H., ... Boston.
CUNNINGHAM, HENRY V., ... Boston.
McLAUGHLIN, JOHN D., ... Boston.
WARNER, HENRY E., ... Boston.
OLMSTEAD, JAMES M., ... Boston.

MICHIGAN.

BATES, HENRY M., ... Ann Arbor.
LYSTER, HENRY L., ... Detroit.

MINNESOTA.

CLARK, HOMER P., ... St. Paul.
*JAGGARD, EDWIN A., ... St. Paul.
RANDALL, HENRY E., ... St. Paul.

MISSOURI.

HADLEY, HERBERT S., ... Jefferson City.
HAGERMAN, LEE W., ... St. Louis.
JOURDAN, MORTON, ... St. Louis.
LEE, JOHN F., ... St. Louis.
WILLIAMS, TYRRELL, ... St. Louis.

NEBRASKA.

MATTERS, THOMAS H., ... Harvard.
VAN DUSEN, JAMES H., ... Omaha.
WEBSTER, JOHN L., ... Omaha.

NEW HAMPSHIRE.

HURD, HENRY N., ... Manchester.
PERKINS, DAVID WALTER, ... Manchester.

NEW YORK.

BOGERT, HENRY L., ... New York.
CRANE, FREDERICK E., ... Brooklyn.
DAVIS, HENRY K., ... New York.
HIRSCHBERG, HENRY, ... Brooklyn.
KALISH, EDWIN L., ... New York.
MACK, WILLIAM, ... New York.
MCLAUGHLIN, FREDERICK C., ... New York.
OLCOTT, J. VAN VECHTEN, ... New York.
RUSSELL, WILLIAM HEPBURN, ... New York.
WINSLOW, WILLIAM BEVERLY, ... New York.

NORTH CAROLINA.

DAVIDSON, THEODORE F., ... Asheville.

OHIO.

KING, EDMUND B., ... Sandusky.

PENNSYLVANIA.

BROWN, REYNOLDS D., ... Philadelphia.
BURR, CHARLES A., ... Philadelphia.
CLEMENT, CHARLES M., ... Sunbury.
GRAY, JAMES C., ... Pittsburgh.
LLOYD, MALCOLM, JR., ... Philadelphia.
OLMSTED, MARLIN E., ... Harrisburg.
RUHL, CHRISTIAN H., ... Reading.
SWEARINGER, J. M., ... Pittsburgh.
THOMPSON, A. M., ... Pittsburgh.

RHODE ISLAND.

ALDRICK, CLARENCE A., ... Providence.
ANGELL, LOUIS L., ... Providence.
BALLOU, DANIEL R., ... Providence.
BARNEY, WALTER H., ... Providence.

RHODE ISLAND—Continued.

Bosworth, Orrin L., ... Bristol.
Comstock, Richard, ... Providence.
Champlain, Irving, ... Providence.
Collins, James C., Jr., ... Providence.
Cram, Henry C., ... Providence.
Cross, Harry P., ... Providence.
Easton, Frank T., ... Providence.
Edwards, Seeber, ... Providence.
Gardner, Rathbone, ... Providence.
Greenough, William B., ... Providence.
Hefferman, John J., ... Woonsocket.
Higgins, James H., ... Pawtucket.
Hinckley, Frank L., ... Providence.
Lyman, Richard E., ... Providence.
McCaffrey, Joseph J., ... Providence.
McCarthy, P. J., ... Providence.
McDonnell, Thomas F. I., ... Providence.
Norris, Samuel, ... Bristol.
O'Connor, E. DeV., ... Providence.
Pierce, E. C., ... Providence.
Rich, William G., ... Woonsocket.
Sweetland, William H., ... Providence.
Tillinghast, Frank W., ... Johnston.
Tillinghast, William R., ... Providence.
Wilson, Charles A., ... Providence.

TEXAS.

Ogden, Charles W., ... San Antonio.

VIRGINIA.

Corbitt, James H., ... Suffolk.
Heath, James Elliott, ... Norfolk.
Rogers, Hamilton, ... Richmond.

*Elected by Executive Committee after meeting.
Number elected at meeting, 107.

ELECTED BY THE EXECUTIVE COMMITTEE BETWEEN THE MEETINGS OF 1904–1905.

ALABAMA.

Roulhac, Thomas R., ... Sheffield.

ARKANSAS.

Peirce, E. B., ... Little Rock.

COLORADO.

Warner, Stanley Clark, ... Denver.

DISTRICT OF COLUMBIA.

Kappler, Charles J., ... Washington.

GEORGIA.

Black, J. C. C., ... Augusta.
O'Byrne, M. A., ... Savannah.
Toomer, W. M., ... Waycross.

ILLINOIS.

Gresham, Otto, ... Chicago.

INDIANA.

Cook, Samuel E., ... Huntington.
Cunningham, George A., ... Evansville.

IOWA.

Norris, William H., ... Manchester.

KENTUCKY.

Calhoun, C. C., ... Lexington.

LOUISIANA.

Perkins, Robert J., ... New Orleans.

MARYLAND.

Gould, Ashley M., ... Silver Spring.

MASSACHUSETTS.

Hale, Richard W., ... Dover.
Hill, Arthur Perry, ... Boston.
Innes, Charles H., ... Boston.
Smith, Jeremiah, Jr., ... Cambridge.

MINNESOTA.

Buffington, George W., ... Minneapolis.
Deutsch, Henry, ... Minneapolis.
Schaller, Albert E., ... Hastings.

MISSOURI.

Haff, D. J., ... Kansas City.

NEW YORK.

Daw, George W., ... Troy.
Finch, Edward R., ... New York.
Rodenbeck, Adolph J., ... Rochester.
Short, Edward Lyman, ... New York.
Squires, A. L., ... Brooklyn.
Waldo, George E., ... New York.

OKLAHOMA TERRITORY.

Diggs, James B., ... Perry.
Flynn, Dennis T., ... Oklahoma City.
Shear, B. D., ... Oklahoma City.
Tetirick, W. C., ... Blackwell.

PENNSYLVANIA.

Rowe, Leo Stanton, ... Philadelphia.

SOUTH CAROLINA.

Simpson, S. J., ... Spartanburg.

Number elected by Executive Committee, 34.

RECAPITULATION.

Alabama,	2	Michigan,	2
Arkansas,	3	Minnesota,	6
California,	4	Missouri,	6
Colorado,	1	Nebraska,	3
Connecticut,	1	New Hampshire,	2
District of Columbia,	4	New York,	16
Florida,	3	North Carolina,	1
Georgia,	3	Ohio,	1
Illinois,	3	Oklahoma Territory,	4
Indiana,	3	Pennsylvania,	10
Iowa,	2	Rhode Island,	29
Kansas,	1	South Carolina,	1
Kentucky,	3	Texas,	1
Louisiana,	2	Virginia,	3
Maryland,	7		
Massachusetts,	14	Total,	141

MEMORANDUM.

The Annual Dinner was held on Friday evening, August 25, 1905, at The Hotel Mathewson, Narragansett Pier, Rhode Island.

The retiring President, Henry St. George Tucker, of Virginia, presided.

Mr. Justice Henry Billings Brown, Mr. Justice Edward Douglass White, Honorable Frederick H. Jackson, Lieutenant Governor of Rhode Island, R. C. Smith, K. C., of Montreal, were among the invited guests present

Two hundred and twenty-five members and delegates were present.

LIST OF PRESIDENTS.

1. 1878–79–*James O. Broadhead,[1] . . St. Louis, Missouri.
2. 1879–80–*Benjamin H. Bristow, . . New York, New York.
3. 1880–81–*Edward J. Phelps, . . . Burlington, Vermont.
4. 1881–82–*Clarkson N. Potter,[2]. . . New York, New York.
5. 1882–83–*Alexander R. Lawton, . Savannah, Georgia.
6. 1883–84–Cortlandt Parker, . . . Newark, New Jersey.
7. 1884–85–*John W. Stevenson, . . Covington, Kentucky.
8. 1885–86–*William Allen Butler, . New York, New York.
9. 1886–87–*Thomas J. Semmes, ... New Orleans, Louisiana.
10. 1887–88–*George G. Wright, . . . Des Moines, Iowa.
11. 1888–89–*David Dudley Field, . . New York, New York.
12. 1889–90–*Henry Hitchcock, ... St. Louis, Missouri.
13. 1890–91–Simeon E. Baldwin, ... New Haven, Connecticut.
14. 1891–92–John F. Dillon, ... New York, New York.
15. 1892–93–*John Randolph Tucker, . Lexington, Virginia.
16. 1893–94–*Thomas M. Cooley,[3] . . . Ann Arbor, Michigan.
17. 1894–95–*James C. Carter, ... New York, New York.
18. 1895–96–Moorfield Storey, ... Boston, Massachusetts.
19. 1896–97–James M. Woolworth, . . Omaha, Nebraska.
20. 1897–98–William Wirt Howe, . . . New Orleans, Louisiana.
21. 1898–99–Joseph H. Choate,[4] . . . . New York, New York.
22. 1899–1900–Charles F. Manderson, . Omaha, Nebraska.
23. 1900–1901–Edmund Wetmore, . . . New York, New York.
24. 1901–1902–U. M. Rose, ... Little Rock, Arkansas.
25. 1902–1903–Francis Rawle, ... Philadelphia, Pennsylvania.
26. 1903–1904–James Hagerman, . . . St. Louis, Missouri.
27. 1904–1905–Henry St. Geo. Tucker, Lexington, Virginia.
28. 1905–1906–George R. Peck, ... Chicago, Illinois.

* Deceased.

[1] At the Conference for organizing the Association in 1878, John H. B. Latrobe, of Maryland, was elected Temporary Chairman, and when the organization was completed, Benjamin H. Bristow, of Kentucky, was elected President of the Conference.

[2] In consequence of the death of Clarkson N. Potter, Francis Kernan, of New York, presided and prepared and delivered the President's Address in 1882.

[3] In consequence of the illness of Thomas M. Cooley, Samuel F. Hunt, of Ohio, presided and read the President's Address prepared by Judge Cooley in 1894.

[4] In consequence of the absence of Joseph H. Choate, as Ambassador to Great Britain, Charles F. Manderson, of Nebraska, presided and prepared and delivered the President's Address in 1899.

LIST OF SECRETARIES.

1. 1878-93-*Edward Otis Hinkley,[1] . . Baltimore, Maryland.
2. 1893- John Hinkley,[2] . . . . . Baltimore, Maryland.

LIST OF TREASURERS.

1. 1878-1902-Francis Rawle, ... Philadelphia, Penna.
2. 1902- Frederick E. Wadhams, . . Albany, New York.

LIST OF EXECUTIVE COMMITTEE.

1. 1878-87-*Luke P. Poland, ... St. Johnsbury, Vermont.
2. 1878-88-Simeon E. Baldwin,[3] . . . . New Haven, Connecticut.
3. 1878-80-*William A. Fisher, ... Baltimore, Maryland.
4. 1880-85-*William Allen Butler, . . New York, New York.
5. 1885-90-*Charles C. Bonney,[3] . . . Chicago, Illinois.
6. 1887-96-George A. Mercer, ... Savannah, Georgia.
7. 1888-90-*John Randolph Tucker, . Lexington, Virginia.
8. 1890-91-*William P. Wells, ... Detroit, Michigan.
9. 1890-99-Alfred Hemenway, ... Boston, Massachusetts.
10. 1891-95-*Bradley G. Schley, ... Milwaukee, Wisconsin.
11. 1895-99-Charles Claflin Allen, . . St. Louis, Missouri.
12. 1896-97-William Wirt Howe, . . . New Orleans, Louisiana.
13. 1897-1900-Charles Noble Gregory, . Madison, Wisconsin.
14. 1899-1900-Edmund Wetmore. . . . . New York, New York.
15. 1899-1901-U. M. Rose, ... Little Rock, Arkansas.
16. 1899-1902-William A. Ketcham, . . Indianapolis, Indiana.
17. 1899-1902-Henry St. George Tucker, Lexington, Virginia.
18. 1900-1903-Rodney A. Mercur, . . . Towanda, Pennsylvania.
19. 1900-1903-Charles F. Libby, ... Portland, Maine.
20. 1901-1903-James Hagerman, ... St. Louis, Missouri.
21. 1902-1905-P. W. Meldrim, ... Savannah, Georgia.
22. 1902-1905-Platt Rogers, ... Denver, Colorado.
23. 1903- M. F. Dickinson, ... Boston, Massachusetts.
24. 1903- Theodore S. Garnett, . . Norfolk, Virginia.
25. 1903- William P. Breen, ... Fort Wayne, Indiana.
26. 1905- Charles Monroe, ... Los Angeles, California.
27. 1905- Ralph W. Breckenridge, . Omaha, Nebraska.

* Deceased.

[1] In 1878, Francis Rawle, of Pennsylvania, and Isaac Grant Thompson, of New York, acted as temporary Secretaries and as Secretaries of the Conference.
In 1886, Edward Otis Hinkley being absent, Walter George Smith, of Pennsylvania, acted as Secretary *pro tempore*.

[2] In 1898, John Hinkley being absent, George P. Wanty, of Michigan, acted as Secretary *pro tempore*.

[3] In 1888, at the first meeting of the Executive Committee after the adjournment of the Association, Simeon E. Baldwin resigned, and Charles C. Bonney was chosen to fill the vacancy under By-Law X.

CONSTITUTION.

NAME AND OBJECT.

ARTICLE I.—This Association shall be known as "THE AMERICAN BAR ASSOCIATION." Its object shall be to advance the science of jurisprudence, promote the administration of justice and uniformity of legislation throughout the union, uphold the honor of the profession of the law and encourage cordial intercourse among the members of the American Bar.

QUALIFICATIONS FOR MEMBERSHIP.

ARTICLE II.—Any person shall be eligible to membership in this Association who shall be, and shall, for five years next preceding, have been a member in good standing of the Bar of any state, and who shall also be nominated as hereinafter provided.

OFFICERS AND COMMITTEES.

ARTICLE III.—The following officers shall be elected at each Annual Meeting for the year ensuing: A President (the same person shall not be elected President two years in succession); one Vice-President from each state; a Secretary; a Treasurer; a Council, consisting of one member from each state (the Council shall be a standing committee on nominations for office); an Executive Committee, which shall consist of the President, the last ex-President, the Secretary and the Treasurer, all of whom shall be *ex-officio* members, together with five other members, to be chosen by the Association, but no member shall be eligible to such choice more than three years in succession; and the President, and in his absence the ex-President, shall be the Chairman of the committee.[1]

[1] Amended August 19, 1898, and August 30, 1899.

The following committees shall be annually appointed by the President for the year ensuing, and shall consist of five members each:

On Jurisprudence and Law Reform;

On Judicial Administration and Remedial Procedure;

On Legal Education and Admissions to the Bar;

On Commercial Law;

On International Law;

On Publications;

On Grievances;

On Law Reporting and Digesting;[1]

On Patent, Trade-Mark and Copyright Law;[2]

On Insurance Law;[3] and a committee

On Uniform State Laws, to consist of one member from each state.[4]

A majority of those members of any committee, including the Council, who may be present at any meeting of the Association, shall constitute a quorum of such committee for the purpose of such meeting.

The Vice-President for each state, and not less than two other members from such state, to be annually elected, shall constitute a Local Council for such state, to which shall be referred all applications for membership from such state. The Vice-President shall be, *ex-officio*, Chairman of such Council.

A committee of three, of whom the Secretary shall always be one, shall be appointed by the President at each Annual Meeting of the Association, whose duty it shall be to report to the next meeting the names of all members who shall, in the interval, have died, with such notices of them as shall, in the discretion of the committee, be proper.

It shall be the duty of the Vice-President from each state and territory to report the deaths of members within the same to the said committee.

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[1] Amended August 29, 1895.

[2] Amended August 30, 1899.

[3] Amended September 28, 1904.

[4] Amended August 28, 1903.

ELECTION OF MEMBERS.

ARTICLE IV.—All nominations for membership shall be made by the Local Council of the state to the Bar of which the persons nominated belong. Such nominations must be transmitted in writing to the Chairman of the General Council, and approved by the Council, on vote by ballot.

The General Council may also nominate members from states having no Local Council, and at the Annual Meeting of the Association, in the absence of all members of the Local Council of any state; *Provided*, That no nomination shall be considered by the General Council, unless accompanied by a statement in writing by at least three members of the Association from the same state with the person nominated, or, in their absence, by members from a neighboring state or states, to the effect that the person nominated has the qualifications required by the Constitution and desires to become a member of the Association, and recommending his admission as a member.

All nominations thus made or approved shall be reported by the Council to the Association, and all whose names are reported shall thereupon become members of the Association; *Provided*, That if any member demand a vote upon any name thus reported, the Association shall thereupon vote thereon by ballot.

Several nominees, if from the same state, may be voted for upon the same ballot; and in such case placing the word "No" against any name or names upon the ticket shall be deemed a negative vote against such name or names, and against those only. Five negative votes shall suffice to defeat an election.

During the period between the Annual Meetings, members may be elected by the Executive Committee upon the written nomination of a majority of the Vice-President and members of the Local Council of any state.

ARTICLE V.—All members of the Conference adopting the Constitution, and all persons elected by them upon the recommendation of the committee of five appointed by such Confer-

ence, shall become members of the Association upon payment of the annual dues for the current year herein provided for.

BY-LAWS.

ARTICLE VI.—By-Laws may be adopted at any Annual Meeting of the Association by a majority of the members present. It shall be the duty of the Executive Committee, without delay, to adopt suitable by-laws, which shall be in force until rescinded by the Association.

DUES.

ARTICLE VII.—Each member shall pay five dollars to the Treasurer as annual dues, and no person shall be qualified to exercise any privilege of membership who is in default. Such dues shall be payable, and the payment thereof enforced, as may be provided by the by-laws. Members shall be entitled to receive all publications of the Association free of charge.

ANNUAL ADDRESS.

ARTICLE VIII.—The President shall open each Annual Meeting of the Association with an address, in which he shall communicate the most noteworthy changes in statute law on points of general interest made in the several states and by Congress during the preceding year. It shall be the duty of the member of the General Council from each state to report to the President, on or before the first day of May, annually, any such legislation in his state.

ANNUAL MEETINGS.

ARTICLE IX.—This Association shall meet annually, at such time and place as the Executive Committee may select, and those present at such meeting shall constitute a quorum.

AMENDMENTS.

ARTICLE X.—This Constitution may be altered or amended by a vote of three-fourths of the members present at any Annual Meeting, but no such change shall be made at any meeting at which less than thirty members are present.

CONSTRUCTION.

ARTICLE XI.—The word "*state*," whenever used in this Constitution, shall be deemed to be equivalent to *state*, *territory* and the *District of Columbia*.

BY-LAWS.

MEETING OF THE ASSOCIATION.

I.—The Executive Committee, at its first meeting after each Annual Meeting, shall select some person to make an address at the next Annual Meeting, and not exceeding six members of the Association to read papers.

II. The order of exercises at the Annual Meeting shall be as follows:

(*a*) Opening Address of the President.
(*b*) Nominations and Election of Members.
(*c*) Election of the General Council.
(*d*) Reports of Secretary and Treasurer.
(*e*) Report of Executive Committee.
(*f*) Reports of Standing Committees.
On Jurisprudence and Law Reform;
On Judicial Administration and Remedial Procedure;
On Legal Education and Admissions to the Bar;
On Commercial Law;
On International Law;
On Publications;
On Grievances;
On Law Reporting and Digesting;
On Patent, Trade-mark and Copyright Law;
On Insurance Law;[1]
On Uniform State Laws.[1]
(*g*) Reports of Special Committees.
(*h*) The Nomination of Officers.
(*i*) Miscellaneous Business.
(*j*) The Election of Officers.

[1] Amended August 23, 1905.

The address, to be delivered by a person invited by the Executive Committee, shall be made at the morning session of the second day of the Annual Meeting.

The reading and delivering of essays and papers shall be on the same day, or at such other time as the Executive Committee may determine.

III.—No person shall speak more than ten minutes at a time or more than twice on one subject.

A stenographer shall be employed at each Annual Meeting.

IV.—Each State Bar Association may annually appoint delegates, not exceeding three in number, to the next meeting of the Association. In states where no State Bar Association exists, any City or County Bar Association may appoint such delegates, not exceeding two in number. Such delegates shall be entitled to all the privileges of membership at and during the said meeting.

V.—At any of the meetings of the Association, members of the Bar of any foreign country or of any state who are not members of the Association may be admitted to the privileges of the floor during such meeting.

VI.—All papers read before the Association shall be lodged with the Secretary. The Annual Address of the President, the reports of committees and all proceedings at the Annual Meeting shall be printed; but no other address made or paper read or presented shall be printed, except by order of the Committee on Publications.

Extra copies of reports, addresses and papers read before the Association may be printed by the Committee on Publications for the use of their authors, not exceeding two hundred copies for each of such authors.

The Secretary and the Chairman of the Executive Committee shall endeavor to arrange with the Smithsonian Institution, or otherwise, a system of exchanges by which the *Transactions*

can be annually exchanged with those of other associations in foreign countries interested in jurisprudence or governmental affairs; and the Secretary shall exchange the *Transactions* with those of the State and Local Bar Associations; and all books thus acquired shall be bound and deposited in the charge of the New York City Bar Association, subject to the call of this Association, if it ever desires to withdraw or consult them, if the former Association agrees to such deposit.

The Secretary shall send one copy of the Report of the proceedings of this Association to the President of the United States, and to each of the Judges of the Supreme Court thereof, and to the Library of the State Department, and of the Department of Justice thereof, and to the Library of Congress, and the Library of the Supreme Court thereof, and to the governor, and to the Chief Judge of the court of last resort of each state, and to the State Librarian thereof, and to all public law libraries, and other principal public and college libraries in the United States, and to such other persons or bodies as the Executive Committee may direct.

No resolution complimentary to an officer or member for any service performed, paper read or address delivered shall be considered by the Association.

OFFICERS AND COMMITTEES.

VII. The terms of office of all officers elected at any Annual Meeting shall commence at the adjournment of such meeting, except the Council, whose term of office shall commence immediately upon their election.

VIII.—The President shall appoint all committees, except the Committee on Publications, within thirty days after the Annual Meeting, and shall announce them to the Secretary, and the Secretary shall promptly give notice to the persons appointed. The Committee on Publications shall be appointed on the first day of each meeting.

There shall be appointed annually by the President a committee to be known as the Reception Committee, consisting of fifteen members of the Association, whose duty it shall be to attend immediately before and at the opening of the first day's session of the meeting to receive members and delegates and introduce them to each other, with a view of making them better acquainted and establishing a spirit of good fellowship among them.[1]

IX.—The Treasurer's Report shall be examined and audited annually, before its presentation to the Association, by two members to be appointed by the Chairman of the Executive Committee.

X.—The Council and all standing committees shall meet on the day preceding each Annual Meeting, at the place where the same is to be held, at such hour as their respective Chairmen shall appoint. If at any Annual Meeting of the Association any member of any committee shall be absent, the vacancy may be filled by the members of the committee present.

The Secretary of the Association shall be the Secretary of the Council.

XI.—The Committee on Publications shall also meet within one month after each Annual Meeting, at such time and place as the Chairman shall appoint.

XII.—Special meetings of any committee shall be held at such times and places as the Chairman thereof may appoint. Reasonable notice shall be given by him to each member by mail.

The traveling and other necessary expenses incurred by any committee, standing or special, for meetings of such committee, during the interval between the Annual Meetings of the Association, shall be paid by the Treasurer, on the approval and by

[1] Amended August 23, 1905.

the order of the Executive Committee, out of such appropriation as to the Executive Committee may seem necessary in each case, on previous application in advance of its expenditure.

All committees may have their reports printed by the Secretary before the Annual Meeting of the Association; and any such report, containing any recommendation for action on the part of the Association, shall be printed, together with a draft of bill embodying the views of the committee, whenever legislation shall be proposed. Such report shall be distributed by mail by the Secretary to all the members of the Association at least fifteen days before the Annual Meeting at which such report is proposed to be submitted. No legislation shall be recommended or approved except upon the report of a committee.[1]

It shall be the duty of each Vice-President and member of the General Council of this Association to endeavor to procure the enactment by the legislature of their state of each and every law recommended by the Association, and the Secretary shall furnish them with copies of each and every recommendation and draft of bill, when there shall be such draft; and whenever this Association shall by resolution recommend the enactment of any law or laws, the Secretary shall, as soon as possible, furnish a copy of the resolution to the President of each State Bar Association, with the request of this Association that such State Bar Association shall co-operate with the local Vice-President and member of the General Council of this Association in having a bill introduced in the legislature of its state containing the subject matter recommended by such resolution, and use proper means to procure the enactment of the same into law. In every state where there is no State Bar Association, a copy of such resolution with a similar request shall be sent to the President of the Bar Association of the principal city in such state: and in every instance where

[1] Amended August 29, 1902.

the form of bill has been recommended with the resolution, a copy of such form of bill shall also be sent with the resolution.

ANNUAL DUES.

XIII.—The Annual Dues shall be payable at the Annual Meeting in advance. If any member neglects to pay them for any year at or before the next Annual Meeting, he shall cease to be a member. The Treasurer shall give notice of this by-law, within sixty days after each meeting, to all members in default.

A member who has been dropped from the roll for non-payment of dues may be restored to membership by the Executive Committee upon the payment of such back dues as the committee shall think equitable.[1] *Provided*, such restoration shall be recommended by a member of the Local Council of his state, or in their absence, at an Annual Meeting, by any two members of the Association.

XIV.—A Section of the Association, to be known as the Section of Legal Education, is hereby established, which shall meet annually in connection with the meeting of the Association, but not during such hours as the Association is in session.

Its object shall be the discussion of methods of legal education, and it may make recommendations to the Association, which shall be referred by the Association to the Committee on Legal Education.

The proceedings of the Section may be published from time to time, at the discretion of the Executive Committee, and on the recommendation of the Committee on Publications.

All members of the Association, who desire, may enroll themselves as members of the Section, and persons not eligible for membership in the Association, but who are engaged in teaching law, may be admitted to the privilege of the floor at any meeting of the Section, by vote of the Section.

[1] Amended September 28, 1904.

The Section shall be organized by the appointment of a Chairman and Secretary at its first session; and a Chairman and Secretary shall thereafter be elected annually by the Section.

A Section of the Association, to be known as the Section of Patent, Trade-Mark and Copyright Law,[1] is hereby established, which shall meet annually in connection with the meeting of the Association, but not during such hours as the Association is in session.

Its object shall be to discuss the subject of the law and practice relating to patents, trade-marks and copyrights. It may report to the Association; and matters relating to patents, trade-marks and copyrights may be referred to it.

The proceedings of the Section may be published from time to time, at the discretion of the Executive Committee, and on the recommendation of the Committee on Publications.

All members of the Association who desire may enroll themselves as members of the Section.

The Section shall be organized by the appointment of a Chairman and Secretary by the Section, and a Chairman and Secretary shall be thereafter annually elected by the Section for the year commencing upon the final adjournment of its meeting.

[1] Amended August 30, 1899.

OFFICERS.

1905-1906.

PRESIDENT,

GEORGE R. PECK,

Chicago, Illinois.

SECRETARY,

JOHN HINKLEY,

215, North Charles Street, Baltimore, Maryland.

TREASURER,

FREDERICK E. WADHAMS,

37, Tweddle Building, Albany, New York.

EXECUTIVE COMMITTEE.

EX OFFICIO.

GEORGE R. PECK, PRESIDENT.
HENRY ST. GEORGE TUCKER, LAST PRESIDENT.
JOHN HINKLEY, SECRETARY.
FREDERICK E. WADHAMS, TREASURER.

ELECTED MEMBERS.

M. F. DICKINSON, *Boston, Massachusetts.*
THEODORE S. GARNETT, *Norfolk, Virginia.*
WILLIAM P. BREEN, *Fort Wayne, Indiana.*
CHARLES MONROE, *Los Angeles, California.*
RALPH W. BRECKENRIDGE, *Omaha, Nebraska.*

GENERAL COUNCIL.

STATE.	NAME.	RESIDENCE.
ALABAMA,	WILLIAM H. THOMAS,	Montgomery.
ALASKA TERRITORY,	ROBERT W. JENNINGS,	Juneau.
ARIZONA TERRITORY,	JOHN J. HAWKINS,	Prescott.
ARKANSAS,	JOHN FLETCHER,	Little Rock.
CALIFORNIA,	LYNN HELM,	Los Angeles.
COLORADO,	LUCIUS W. HOYT,	Denver.
CONNECTICUT,	LEWIS E. STANTON,	Hartford.
DELAWARE,	JOHN P. NIELDS,	Wilmington.
DISTRICT OF COLUMBIA,	ALDIS B. BROWNE,	Washington.
FLORIDA,	R. W. WILLIAMS,	Tallahassee.
GEORGIA,	P. W. MELDRIM,	Savannah.
HAWAII TERRITORY,	DAVID L. WITHINGTON,	Honolulu.
IDAHO,	WILLIAM W. WOODS,	Wallace.
ILLINOIS,	GEORGE T. PAGE,	Peoria.
INDIAN TERRITORY,	S. T. BLEDSOE,	Ardmore.
INDIANA,	WILLIAM P. BREEN,	Fort Wayne.
IOWA,	CHARLES A. DUDLEY,	Des Moines.
KANSAS,	J. W. GREEN,	Lawrence.
KENTUCKY,	WILLIAM H. MACKOY,	Covington.
LOUISIANA,	ERNEST T. FLORANCE,	New Orleans.
MAINE,	CHARLES F. LIBBY,	Portland.
MARYLAND,	GEORGE WHITELOCK,	Baltimore.
MASSACHUSETTS,	JAMES BARR AMES,	Cambridge.
MICHIGAN,	WILLIAM L. JANUARY,	Detroit.
MINNESOTA,	FREDERICK V. BROWN,	Minneapolis.
MISSISSIPPI,	E. J. BOWERS,	Bay St. Louis.
MISSOURI,	FREDERICK W. LEHMANN,	St. Louis.
MONTANA,	WILLIAM SCALLON,	Butte.
NEBRASKA,	CHARLES L. DUNDEY,	Omaha.
NEVADA,	FRANCIS M. HUFFAKER,	Virginia City.
NEW HAMPSHIRE,	IRA A. CHASE,	Bristol.

STATE.	NAME.	RESIDENCE.
New Jersey,	James J. Bergen,	Somerville.
New Mexico Ter.,	Thomas B. Catron,	Santa Fé.
New York,	Everett P. Wheeler,	New York.
North Carolina,	J. Crawford Biggs,	Durham.
North Dakota,	Andrew A. Bruce,	Grand Forks.
Ohio,	Francis B. James,	Cincinnati.
Oklahoma Ter.,	Ernest E. Blake,	El Reno.
Oregon,	R. S. Bean,	Salem.
Pennsylvania,	Walter George Smith,	Philadelphia.
Philippine Islands,	David W. Yancey,	Manila.
Rhode Island,	Amasa M. Eaton, *Chmn.*,	Providence.
South Carolina,	T. Moultrie Mordecai,	Charleston.
South Dakota,	Bartlett Tripp,	Yankton.
Tennessee,	E. T. Sanford,	Knoxville.
Texas,	Charles W. Ogden,	San Antonio.
Utah,	Charles S. Varian,	Salt Lake City.
Vermont,	Elihu B. Taft,	Burlington.
Virginia,	S. Griffin,	Bedford City.
Washington,	Charles E. Shepard,	Seattle.
West Virginia,	George E. Price,	Charleston.
Wisconsin,	H. S. Richards,	Madison.
Wyoming,	Charles N. Potter,	Cheyenne.

VICE-PRESIDENTS

AND

MEMBERS OF LOCAL COUNCILS.

ELECTED 1905.

ALABAMA.

Vice-President,	FREDERICK G. BROMBERG,	Mobile.
Local Council,	ALEXANDER T. LONDON,	Birmingham.
	SAMUEL D. WEAKLEY,	Birmingham.
	FRED. S. BALL,	Montgomery.
	OSCAR R. HUNDLEY,	Huntsville.
	LAWRENCE COOPER,	Huntsville.
	GEORGE P. HARRISON,	Opelika.

ALASKA TERRITORY.

Vice-President,	(vacant).	
Local Council,	ROBERT W. JENNINGS,	Juneau.
	W. J. HILLS,	Juneau.

ARIZONA TERRITORY.

Vice-President,	JOHN C. HERNDON,	Prescott.
Local Council,	EVERETT E. ELLINWOOD,	Prescott.

ARKANSAS.

Vice-President,	ASHLEY COCKRILL,	Little Rock.
Local Council,	JAMES F. READ,	Fort Smith.
	ALLEN HUGHES,	Jonesboro.
	GEORGE B. ROSE,	Little Rock.
	JOSEPH M. STAYTON,	Newport.
	DEADERICK H. CANTRELL,	Little Rock.

CALIFORNIA.

Vice-President,	JAMES A. GIBSON,	Los Angeles.
Local Council,	WILLIAM J. HUNSAKER,	Los Angeles.
	EDWARD C. BAILEY,	Los Angeles.
	WARREN OLNEY,	San Francisco.
	W. H. CHICKERING,	San Francisco.

COLORADO.

Vice-President,	LUTHER M. GODDARD,	Denver.
Local Council,	CHARLES E. GAST,	Pueblo.
	HORACE G. LUNT,	ColoradoSprings.
	HUGH BUTLER,	Denver.
	CALDWELL YEAMAN,	Denver.
	H. N. HAYNES,	Greeley.

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Vice-President,	LEWIS E. STANTON,	Hartford.
Local Council,	TALCOTT H. RUSSELL,	New Haven.
	GEORGE D. WATROUS,	New Haven.
	EDWIN B. GAGER,	Derby.
	JAMES H. WEBB,	New Haven.

DELAWARE.

Vice-President,	GEORGE GRAY,	Wilmington.
Local Council,	WILLARD SAULSBURY,	Wilmington.

DISTRICT OF COLUMBIA.

Vice-President,	MELVILLE CHURCH,	Washington.
Local Council,	HENRY E. DAVIS,	Washington.
	ARTHUR P. GREELEY,	Washington.
	SAMUEL MADDOX,	Washington.
	CHAPIN BROWN,	Washington.
	J. NOTA McGILL,	Washington.
	CHANNING RUDD,	Washington.
	ROBERT J. FISHER,	Washington.

FLORIDA.

Vice-President,	JOHN C. AVERY,	Pensacola.
Local Council,	LOUIS C. MASSEY,	Orlando.
	DUNCAN U. FLETCHER,	Jacksonville.
	GEORGE C. BEDELL,	Jacksonville.
	C. D. RINEHART,	Jacksonville.
	WALTER B. CLARKSON,	Jacksonville.
	WILLIAM C. HODGES,	Tallahassee.

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Local Council,	W. A. WIMBISH,	Atlanta.
	JOSEPH R. LAMAR,	Augusta.
	HENRY C. CUNNINGHAM,	Savannah.
	JOHN E. DONALSON,	Bainbridge.
	JOHN W. AKIN,	Cartersville.

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Vice-President, (vacant).
Local Council, LYLE A. DICKEY, ... Honolulu.
WILLIAM O. SMITH, ... Honolulu.

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Vice-President, WILLIAM W. WOODS, ... Wallace.
Local Council, (vacant).

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Vice-President, STEPHEN S. GREGORY, . . . Chicago.
Local Council, JOHN C. RICHBERG, ... Chicago.
ROBERT H. PARKINSON, . . Chicago.
JOHN H. WIGMORE, ... Chicago.
E. B. SHERMAN, ... Chicago.
JULIAN W. MACK, ... Chicago.
JAMES PARKER HALL, . . . Chicago.
OLIVER A. HARKER, ... Carbondale.
WILLIAM R. CURRAN, . . Pekin.

INDIAN TERRITORY.

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Local Council, S. T. BLEDSOE, ... Ardmore.
W. H. KORNEGAY, ... Vinita.
JAMES S. DAVENPORT, . . Vinita.
J. F. SHARP, ... Purcell.
ROBERT L. WILLIAMS, . . . Durant.
WALTER A. LEDBETTER, . Ardmore.
S. GUERRIER, ... So. McAlester.
PRESTON C. WEST, ... Muskogee.

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Local Council, WILLIAM A. KETCHAM, . . Indianapolis.
LOUIS NEWBERGER, ... Indianapolis.
GEORGE L. REINHARD, . . . Bloomington.
DAN W. SIMMS, ... Lafayette.
GEORGE P. HAYWOOD, . . . Lafayette.
JOHN MORRIS, ... Fort Wayne.
JOHN L. RUPE, ... Richmond.
JOHN G. EWING, ... Notre Dame.
ELMER E. STEVENSON, . . . Indianapolis.
DANIEL FRASER, ... Fowler.

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Vice-President,	CHARLES NOBLE GREGORY,	Iowa City.
Local Council,	JOHN DEERY,	Dubuque.
	JAMES O. CROSBY,	Garnavillo.
	A. E. SWISHER,	Iowa City.

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Vice-President,	CHARLES BLOOD SMITH,	Topeka.
Local Council,	ERNEST B. CONANT,	Topeka.
	J. G. SLONECKER,	Topeka.
	WILLIAM E. HIGGINS,	Lawrence.

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	WM. MARSHALL BULLITT,	Louisville.
	WALKER C. HALL,	Covington.
	D. H. HUGHES,	Paducah.
	ROBERT A. THORNTON,	Lexington.
	GEORGE G. GILBERT,	Shelbyville.
	W. T. ELLIS,	Owensboro.

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Local Council,	ERNEST B. KRUTTSCHNITT,	New Orleans.
	W. O. HART,	New Orleans.
	E. W. SUTHERLIN,	Shreveport.
	EDWIN T. MERRICK,	New Orleans.
	J. R. THORNTON,	Alexandria.
	W. S. BENEDICT,	New Orleans.

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Vice-President,	FRANK M. HIGGINS,	Limerick.
Local Council,	HANNIBAL E. HAMLIN,	Ellsworth.
	FREDERICK A. POWERS,	Houlton.
	WILLIAM B. SKELTON,	Lewiston.
	CHARLES E. LITTLEFIELD,	Rockland.
	JOHN B. MADIGAN,	Houlton.

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Local Council,	JOHN P. BRISCOE,	Prince Frederick
	GEORGE M. SHARP,	Baltimore.
	STEVENSON A. WILLIAMS,	Bel Air.
	ALFRED S. NILES,	Baltimore.
	RICHARD BERNARD,	Baltimore.
	FRANK G. TURNER,	Baltimore.

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WILLIAM V. KELLEN, . . . Boston.
JOSEPH HENRY BEALE, JR., Cambridge.

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Vice-President, JOSEPH B. MOORE, ... Lansing.
Local Council, HORACE L. WILGUS, . . . Ann Arbor.
JAMES H. BREWSTER, . . . Ann Arbor.
HENRY M. BATES, ... Ann Arbor.
HENRY RUSSELL, ... Detroit.
HENRY A. HARMON, ... Detroit.
DAN H. BALL, ... Marquette.
BENTON HANCHETT, ... Saginaw, W. S.

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Vice-President, ROME G. BROWN, ... Minneapolis.
Local Council, DANIEL FISH, ... Minneapolis.
AMBROSE TIGHE, ... St. Paul.
J. L. WASHBURN, ... Duluth.

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Vice-President, C. B. HOWRY (Wash., D. C.), . Oxford.
Local Council, R. H. THOMPSON, ... Jackson.

MISSOURI.

Vice-President, JACOB KLEIN, ... St. Louis.
Local Council, JOHN D. LAWSON, ... Columbia.
THOMAS H. REYNOLDS, . . . Kansas City.
HERBERT S. HADLEY, . . . Jefferson City.
SHEPARD BARCLAY, ... St. Louis.
V. MOTT PORTER, ... St. Louis.
JOHN F. LEE, ... St. Louis.
FREDERICK N. JUDSON, . . St. Louis.
SELDEN P. SPENCER, ... St. Louis.

MONTANA.

Vice-President, (vacant).
Local Council, WILLIAM SCALLON, ... Butte.

NEBRASKA.

Vice-President,	JOHN LEE WEBSTER, ...	Omaha.
Local Council,	CHARLES L. DUNDEY, . . .	Omaha.
	EDMUND M. BARTLETT, . .	Omaha.
	IRVING F. BAXTER, ...	Omaha.
	JOHN N. DRYDEN, . .	Kearney.
	W. G. HASTINGS, ...	Wilbur.
	CHARLES B. LETTON, ...	Fairbury.
	ROSCOE POUND, ...	Lincoln.

NEVADA.

Vice-President,	FRANCIS M. HUFFAKER, . .	Virginia City.
Local Council,	(vacant).	

NEW HAMPSHIRE.

Vice-President,	JOSEPH W. FELLOWS, . . .	Manchester.
Local Council,	SAMUEL C. EASTMAN, . . .	Concord.
	OLIVER E. BRANCH, ...	Manchester.
	FRANK S. STREETER, ...	Concord.

NEW JERSEY.

Vice-President,	CHARLES BORCHERLING, .	Newark.
Local Council,	ROBERT H. McCARTER, . .	Newark.
	JOHN R. HARDIN, ...	Newark.
	EDWARD Q. KEASBEY, . . .	Newark.
	ALAN H. STRONG, ...	New Brunswick.
	ADRIAN RIKER, ...	Newark.

NEW MEXICO TERRITORY.

Vice-President,	THOMAS B. CATRON, ...	Sante Fé.
Local Council,	(vacant).	

NEW YORK.

Vice-President,	WILLIAM B. HORNBLOWER,	New York.
Local Council,	ROBERT D. BENEDICT, . . .	New York.
	RICHARD L. HAND, . .	Elizabethtown.
	HENRY GALBRAITH WARD,	New York.
	FERDINAND SHACK, ...	New York.
	FRANKLIN M. DANAHER, .	Albany.
	EDWARD B. WHITNEY, . . .	New York.
	JOHN CUNNEEN, ...	Buffalo.
	FRANK HARVEY FIELD, . .	Brooklyn.

NORTH CAROLINA.

Vice-President,	FABIUS H. BUSBEE,	Raleigh.
Local Council,	ALEX. B. ANDREWS, JR.,	Raleigh.
	CLEMENT MANLY,	Winston-Salem.
	L. H. CLEMENT,	Salisbury.
	JOHN L. BRIDGERS,	Tarboro.
	LINDSAY PATTERSON,	Winston-Salem.
	T. F. DAVIDSON,	Asheville.

NORTH DAKOTA.

Vice-President,	JAMES H. BOSARD,	Grand Forks.
Local Council,	BURLEIGH F. SPALDING,	Fargo.
	JAMES M. AUSTIN,	Ellendale.
	W. H. THOMAS,	Leeds.
	ANDREW A. BRUCE,	Grand Forks.

OHIO.

Vice-President,	MARTIN DEWEY FOLLETT,	Marietta.
Local Council,	C. D. ROBERTSON,	Cincinnati.
	WILLIAM P. ROGERS,	Cincinnati.
	LAWRENCE MAXWELL, JR.,	Cincinnati.
	VIRGIL P. KLINE,	Cleveland.
	JOHN N. VAN DEMAN,	Dayton.
	JAMES O. TROUP,	Bowling Green.

OKLAHOMA TERRITORY.

Vice-President,	MATTHEW J. KANE,	Kingfisher.
Local Council,	CHARLES B. AMES,	Oklahoma City.
	T. J. WOMACK,	Alva.
	ARTHUR M. MACKEY,	Pond Creek.
	FRANK WELLS,	Oklahoma City.

OREGON.

Vice-President,	CHARLES H. CAREY,	Portland.
Local Council,	CHARLES J. SCHNABEL,	Portland.
	R. S. BEAN,	Salem.
	FREDERICK V. HOLMAN,	Portland.

PENNSYLVANIA.

Vice-President,	JOHN BARRY COLAHAN, JR.,	Philadelphia.
Local Council,	RICHARD L. ASHHURST,	Philadelphia.
	HENRY J. STEELE,	Easton.
	WILLIAM DRAPER LEWIS,	Philadelphia.
	RUSSELL DUANE,	Philadelphia.

PENNSYLVANIA.—Continued.

	SIDNEY R. MINER,	Wilkes Barre.
	RODNEY A. MERCUR,	Towanda.
	H. S. PRENTISS NICHOLS,	Philadelphia.
	WILLIAM H. STAAKE,	Philadelphia.

PHILIPPINE ISLANDS.

Vice-President,	DAVID WALKER YANCEY,	Manila.
Local Council,	(vacant).	

RHODE ISLAND.

Vice-President,	JAMES TILLINGHAST,	Providence.
Local Council,	JOHN H. STINESS,	Providence.
	DARIUS BAKER,	Newport.
	DEXTER B. POTTER,	Providence.
	AUGUSTUS S. MILLER,	Providence.
	ALBERT A. BAKER,	Providence.

SOUTH CAROLINA.

Vice-President,	M. HERNDON MOORE,	Columbia.
Local Council,	GEORGE LAMB BUIST,	Charleston.
	AUGUSTINE T. SMYTHE,	Charleston.
	HENRY E. YOUNG,	Charleston.
	HENRY BUIST,	Charleston.

SOUTH DAKOTA.

Vice-President,	BARTLETT TRIPP,	Yankton.
Local Council,	COE I. CRAWFORD,	Huron.
	JOHN H. VOORHEES,	Sioux Falls.
	ROLLIN J. WELLS,	Sioux Falls.

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Vice-President,	W. B. SWANEY,	Chattanooga.
Local Council,	HENRY H. INGERSOLL,	Knoxville.
	DAVID K. YOUNG,	Clinton.
	ROBERT LUSK,	Nashville.
	J. W. BONNER,	Nashville.

TEXAS.

Vice-President,	WILLIAM H. BURGES,	El Paso.
Local Council,	T. S. MILLER,	Dallas.
	M. A. SPOONTS,	Fort Worth.
	J. W. TERRY,	Galveston.
	F. C. DILLARD,	Sherman.

UTAH.

Vice-President, P. L. WILLIAMS, ... Salt Lake City.
Local Council, EDWARD B. CRITCHLOW, . . Salt Lake City.

VERMONT.

Vice-President, ELIHU B. TAFT, ... Burlington.
Local Council, O. M. BARBER, ... Bennington.

VIRGINIA.

Vice-President, ROBERT M. HUGHES, . . . Norfolk.
Local Council, LUCIEN H. COCKE, ... Roanoke.
S. S. P. PATTESON, ... Richmond.
JOHN H. LEWIS, ... Lynchburg.
SAMUEL V. FULKERSON, . . Bristol.
ROBERT R. PRENTIS, ... Suffolk.
R. CARTER SCOTT, ... Richmond.
WILLIS B. SMITH, ... Richmond.

WASHINGTON.

Vice-President, GEORGE M. FORSTER, . . . Spokane.
Local Council, CHARLES E. SHEPARD, . . . Seattle.

WEST VIRGINIA.

Vice-President, B. MASON AMBLER, ... Parkersburg.
Local Council, GEORGE E. PRICE, ... Charleston.
WILLIAM P. HUBBARD, . . Wheeling.
DABNEY C. T. DAVIS, JR., . . Charleston.
W. W. BRANNON, ... Weston.
WILLIAM N. MILLER, . . . Parkersburg.

WISCONSIN.

Vice-President, GEORGE G. GREENE, ... Green Bay.
Local Council, HOWARD L. SMITH, ... Madison.
MALCOLM G. JEFFRIS, . . . Janesville.
BENJAMIN K. MILLER, . . . Milwaukee.
JAMES M. PERELES, ... Milwaukee.
BURR W. JONES, ... Madison.
J. C. KERWIN, ... Madison.

WYOMING.

Vice-President, (vacant).
Local Council, TIMOTHY F. BURKE, ... Cheyenne.
NELLIS E. CORTHELL, . . . Laramie.
JOHN W. LACEY, ... Cheyenne.

STANDING COMMITTEES.

1905—1906.

Jurisprudence and Law Reform.

P. W. MELDRIM, Savannah, Georgia.
CHARLES CLAFLIN ALLEN, St. Louis, Missouri.
HENRY D. ESTABROOK, New York, New York.
WILLIAM A. KETCHAM, Indianapolis, Indiana.
C. LaRUE MUNSON, Williamsport, Pennsylvania.

Judicial Administration and Remedial Procedure.

EDWIN BURRITT SMITH, Chicago, Illinois.
ROBERT D. BENEDICT, New York, New York.
WILLIAM P. BREEN, Fort Wayne, Indiana.
LUNSFORD L. LEWIS, Richmond, Virginia.
WILLIAM H. ROSSINGTON, Topeka, Kansas.

Legal Education and Admissions to the Bar.

GEORGE M. SHARP, Baltimore, Maryland.
HENRY WADE ROGERS, New Haven, Connecticut.
JOSEPH HENRY BEALE, Jr., Cambridge, Massachusetts.
LUCIUS H. PERKINS, Lawrence, Kansas.
J. CRAWFORD BIGGS, Durham, North Carolina.

Commercial Law.

WALTER S. LOGAN, New York, New York.
GEORGE WHITELOCK, Baltimore, Maryland.
W. U. HENSEL, Lancaster, Pennsylvania.
ALDIS B. BROWNE, Washington, District of Columbia.
FRED. W. LEHMANN, St. Louis, Missouri.

International Law.

EVERETT P. WHEELER, New York, New York.
J. M. DICKINSON, Chicago, Illinois.
JAMES F. BARNETT, Grand Rapids, Michigan.
ERNEST B. KRUTTSCHNITT, New Orleans, Louisiana.
JAMES O. CROSBY, Garnavillo, Iowa.

Publications.

GEORGE WHITELOCK, Baltimore, Maryland.
EDWARD A. HARRIMAN, Derby, Connecticut.
CHARLES CLAFLIN ALLEN, St. Louis, Missouri.
FRANCIS B. JAMES, Cincinnati, Ohio.
ROBERT M. HUGHES, Norfolk, Virginia.

Grievances.

JOHN F. DILLON, New York, New York.
MOORFIELD STOREY, Boston, Massachusetts.
U. M. ROSE, Little Rock, Arkansas.
CHARLES F. MANDERSON, Omaha, Nebraska.
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COBB, A. WARD, ... Atlanta, Ga.
COCHRAN, ALEXANDER G., ... St. Louis, Mo.
COCKE, LUCIAN H., ... Roanoke, Va.
COCKRAN, W. BOURKE, ... New York, N. Y.
COCKRILL, ASHLEY, ... Little Rock, Ark.
COHEN, EMANUEL, ... Minneapolis, Minn.
COHN, MORRIS M., ... Little Rock, Ark.
COKE, HENRY C., ... Dallas, Tex.
COKE, JOHN A., ... Richmond, Va.
COLAHAN, JOHN BARRY, ... Philadelphia, Pa.
COLBY, JAMES F., ... Hanover, N. H.
COLE, CHESTER C., ... Des Moines, Iowa.
COLE, CLARENCE L., ... Atlantic City, N. J.
COLIE, EDWARD M., ... Newark, N. J.
COLLIER, M. DWIGHT, ... New York, N. Y.
COLLINS, CHARLES CUMMINGS, ... St. Louis, Mo.
COLLINS, JAMES C., JR., ... Providence, R. I.
COLSTON, EDWARD, ... Cincinnati, Ohio.
COLT, LEBARON B., ... Providence, R. I.
COLTON, WILLIAM, ... Baltimore, Md.
COMSTOCK, RICHARD, ... Providence, R. I.
CONANT, ERNEST B., ... Topeka, Kan.
CONANT, GEORGE A., ... Hartford, Conn.
COOK, CHARLES SUMNER, ... Portland, Me.
COOK, E. S., ... Cleveland, Ohio.
COOK, SAMUEL E., ... Huntington, Ind.
COOK, WILLIAM W., ... New York, N. Y.
COOLIDGE, WILLIAM H., ... Boston, Mass.
COOPER, JOHN T., ... Parkersburg, W. Va.
COOPER, LAWRENCE, ... Huntsville, Ala.
COPELAND, ALFRED M., ... Springfield, Mass.

CORBET, BURKE, ... San Francisco, Cal.
CORBITT, JAMES H., ... Suffolk, Va.
CORN, SAMUEL T., ... Cheyenne, Wyo.
CORTHELL, NELLIS E., ... Laramie, Wyo.
COSTIGAN, EDWARD P., ... Denver, Col.
COSTIGAN, GEORGE P., JR., ... Lincoln, Neb.
COTTER, JAMES E., ... Boston, Mass.
COUDERT, FREDERIC R., JR., ... New York, N. Y.
COWIN, J. C., ... Omaha, Neb.
COX, ATTILLA, JR., ... Louisville, Ky.
COXE, HANSON C. (Paris, France), ... New York, N. Y.
COXE, MACGRANE, ... New York, N. Y.
CRAIG, JOHN E., ... Keokuk, Iowa.
CRAM, HENRY C., ... Providence, R I.
CRANE, FREDERICK E., ... Brooklyn, N. Y.
CRAPO, WILLIAM W., ... New Bedford, Mass.
CRAWFORD, COE I., ... Huron, S. D.
CRITCHLOW, EDWARD B., ... Salt Lake City, Utah.
CROCKER, GEORGE G., ... Boston, Mass.
CROSBY, JAMES O., ... Garnavillo, Iowa.
CROSBY, JOHN C., ... Pittsfield, Mass.
CROSS, DAVID, ... Manchester, N. H.
CROSS, E. J. D., ... Baltimore, Md.
CROVATT, A. J., ... Brunswick, Ga.
CULVER, M. EUGENE, ... Middletown, Conn.
CUMMING, JOSEPH B., ... Augusta, Ga.
CUMMING, S. GORDON, ... Hampton, Va.
CUMMINS, A. B., ... Des Moines, Iowa.
CUNNEEN, JOHN, ... Buffalo, N. Y.
CUNNINGHAM, FREDERIC, ... Boston, Mass.
CUNNINGHAM, GEORGE A., ... Evansville, Ind.
CUNNINGHAM, HENRY C., ... Savannah, Ga.
CUNNINGHAM, T. M., JR., ... Savannah, Ga.
CUNNINGHAM, HENRY V., ... Boston, Mass.
CURRAN, WILLIAM R., ... Pekin, Ill.
CURTIS, HARRY C., ... Providence, R. I.
CURTIS, JULIUS B., ... Stamford, Conn.
CURTIS, LEONARD E., ... Colorado Springs, Col.
CURTIS, WILLIAM S., ... St. Louis, Mo.
CUSHING, WILLIAM E., ... Cleveland, Ohio.
CUTHBERT, LUCIUS M., ... Denver, Col.
CUYLER, THOMAS DEWITT, ... Philadelphia, Pa.
DABNEY, L. S., ... Boston, Mass.
DALE, HORATIO F., ... Des Moines, Iowa.
DALEY, A. F., ... Wrightsville, Ga.

DANA, SAMUEL W., ... New Castle, Pa.
DANAHER, FRANKLIN M., ... Albany, N. Y.
DANIELS, EDWARD, ... Indianapolis, Ind.
DANIELS, FRANCIS B., ... Chicago, Ill.
DART, HENRY P., ... New Orleans, La.
DAVENPORT, JAMES S., ... Vinita, I. T.
DAVIDSON, THEODORE F., ... Asheville, N. C.
DAVIES, JULIEN T., ... New York, N. Y.
DAVIES, WILLIAM GILBERT, ... New York, N. Y.
DAVIS, CHARLES HALL, ... Petersburg, Va.
DAVIS, DABNEY C. T., JR., ... Charleston, W. Va.
DAVIS, HARRY C., ... Denver, Col.
DAVIS, HENRY E., ... Washington, D. C.
DAVIS, HENRY K., ... New York, N. Y.
DAVIS, JAMES C., ... Des Moines, Iowa.
DAVIS, RICHARD B., ... Petersburg, Va.
DAVIS, SYDNEY B., ... Terre Haute, Ind.
DAVIS, THEODORE P., ... Indianapolis, Ind.
DAVIS, VERNON M., ... New York, N. Y.
DAVIS, WALTER W., ... Leadville, Col.
DAW, GEORGE W., ... Troy, N. Y.
DAWKINS, WALTER I., ... Baltimore, Md.
DAWSON, CLYDE C., ... Canon City, Col.
DAWSON, WILLIAM H., ... Baltimore, Md.
DAY, WILLIAM R. (Washington, D. C.), ... Canton, Ohio.
DEERING, JAMES A., ... New York, N. Y.
DEERY, JOHN, ... Dubuque, Iowa.
DEGRAFFENRIED, EDWARD, ... Greensboro, Ala.
DELACY, JOHN F., ... Eastman, Ga.
DEMPSEY, JAMES H., ... Cleveland, Ohio.
DENEEN, CHARLES S. (Springfield, Ill.), ... Chicago, Ill.
DENÉGRE, GEORGE, ... New Orleans, La.
DENÉGRE, WALTER D., ... New Orleans, La.
DENISON, ARTHUR C., ... Grand Rapids, Mich.
DENISON, HOWARD P., ... Syracuse, N. Y.
DENNIS, JAMES U., ... Baltimore, Md.
DENT, S. H., JR., ... Montgomery, Ala.
DENT, THOMAS, ... Chicago, Ill.
DEPEW, CHAUNCEY M., ... New York, N. Y.
DEUTSCH, HENRY, ... Minneapolis, Minn.
DEVECMON, WILLIAM C., ... Cumberland, Md.
DEVITT, J. F., ... Muscatine, Iowa.
DEWART, FREDERICK W., ... Spokane, Wash.
DEWEESE, J. W., ... Lincoln, Neb.
DEWEY, HENRY S., ... Boston, Mass.

DICKEY, LYLE A., ... Honolulu, H. T.
DICKINSON, DON M., ... Detroit, Mich.
DICKINSON, J. M., ... Chicago, Ill.
DICKINSON, M. F., ... Boston, Mass.
DICKMAN, FRANKLIN J., ... Cleveland, Ohio.
DICKSON, SAMUEL, ... Philadelphia, Pa.
DIGGS, JAMES B., ... Perry, O. T.
DILLARD, F. C., ... Sherman, Tex.
DILLAWAY, W. E. L., ... Boston, Mass.
DILLE, JOHN I., ... Des Moines, Iowa.
DILLON, JOHN F., ... New York, N. Y.
DINES, ORVILLE L., ... Denver, Col.
DINES, TYSON S, ... Denver, Col.
DIVEN, GEORGE M., ... Elmira, N. Y.
DIXON, JOHN R., ... Denver, Col.
DIXON, WILLIAM W., ... Butte, Mont.
DODGE, FREDERIC, ... Boston, Mass.
DODGE, WILLIAM W., ... Washington, D. C.
DONALDSON, WILLIAM R., ... St. Louis, Mo.
DONALDSON, WILLIAM R., JR., ... St. Louis, Mo.
DONALSON, JOHN E., ... Bainbridge, Ga.
DONNELLY, EDWARD A., ... Baltimore, Md.
DOOLAN, JOHN C., ... Louisville, Ky.
DOOLEY, P. C., ... Little Rock, Ark.
DOS PASSOS, JOHN R., ... New York, N. Y.
DOUB, ALBERT A., ... Cumberland, Md.
DOUGHERTY, J. HAMPDEN, ... New York, N. Y.
DOUGLAS, ROBERT M., ... Greensboro, N. C.
DOUGLAS, WALTER B., ... St. Louis, Mo.
DOWELL, JULIAN C., ... Washington, D. C.
DOWNER, SYLVESTER S., ... Reno, Nev.
DOYLE, JOHN H., ... Toledo, Ohio.
DOYLE, LOUIS F., ... New York, N. Y.
DRAPER, JOHN S., JR., ... Pulaski, Va.
DREW, WILLIAM L., ... Ithaca, N. Y.
DRIGGS, FREDERICK E., ... Detroit, Mich.
DRYDEN, JOHN N., ... Kearney, Neb.
DUANE, RUSSELL, ... Philadelphia, Pa.
DUBIGNON, FLEMING G., ... Atlanta, Ga.
DUDLEY, CHARLES A., ... Des Moines, Iowa.
DUELL, CHARLES H. (Washington, D. C.), . . . New York, N. Y.
DUFFIELD, HENRY M., ... Detroit, Mich.
DUNDEY, CHARLES L., ... Omaha, Neb.
DUGAN, PATRICK C., ... Albany, N. Y.
DUNKLEE, GEORGE F., ... Denver, Col.

DUNLOP, G. THOMAS, ... Washington, D. C.
DUNN, MICHAEL, ... Paterson, N. J.
DURAND, LORENZO T., ... Saginaw, E. S., Mich.
DURBAN, FRANK A., ... Zanesville, Ohio.
DUTTON, JOHN A., ... New York, N. Y.
DUVAL, BEN. T., ... Fort Smith, Ark.
DYE, JOHN T., ... Indianapolis, Ind.
DYER, DAVID P., ... St. Louis, Mo.
DYER, RICHARD N., ... New York, N. Y.
DYRENFORTH, PHILIP C., ... Chicago, Ill.
DYRENFORTH, WILLIAM H., ... Chicago, Ill.
EARLY, MARION C., ... St. Louis, Mo.
EASTMAN, SAMUEL C., ... Concord, N. H.
EASTMAN, SIDNEY C., ... Chicago, Ill.
EASTON, FRANK T, ... Providence, R. I.
EATON, AMASA M., ... Providence, R. I.
EATON, WILLIAM L., ... Osage, Iowa.
ECKSTEIN, O. G., ... Wichita, Kan.
EDMONSTON, WILLIAM E., ... Washington, D. C.
EDSON, JOSEPH R., ... Washington, D. C.
EDWARDS, PEYTON F., ... El Paso, Tex.
EDWARDS, SEEBER, ... Providence, R. I.
ELGUTTER, CHARLES S., ... Omaha, Neb.
ELIOT, EDWARD C., ... St. Louis, Mo.
ELKUS, ABRAM I., ... New York, N. Y.
ELLINWOOD, EVERETT E., ... Prescott, Ariz.
ELLIOTT, CHARLES B., ... Minneapolis, Minn.
ELLIOTT, WILLIAM F., ... Indianapolis, Ind.
ELLIS, W. D., ... Atlanta, Ga.
ELLIS, W. T., ... Owensboro, Ky.
ELLISON, THOMAS E., ... Fort Wayne, Ind.
ELY, JOHN J., ... Freehold, N. J.
EMERY, JOHN R., ... Newark, N. J.
EMERY, LUCILIUS A., ... Ellsworth, Me.
ERWIN, R. G., ... Savannah, Ga.
ESTABROOK, HENRY D., ... New York, N. Y.
EVANS, ROWLAND, ... Indianapolis, Ind.
EVERETTE, WILLIS E., ... Tacoma, Wash.
EWING, HAMPTON D., ... New York, N. Y.
EWING, JOHN A., ... Leadville, Col.
EWING, JOHN G., ... Notre Dame, Ind.
EWING, NATHANIEL, ... Uniontown, Pa.
FAIRBANKS, CHAS. W., ... Indianapolis, Ind.
FAIRCHILD, H. O., ... Green Bay, Wis.
FAIRLEIGH, JAMES FRANKLIN, ... Louisville, Ky.

FALL, GEORGE HOWARD, ... Malden, Mass.
FARQUHAR, GUY E., ... Pottsville, Pa.
FARRAR, EDGAR H., ... New Orleans, La.
FEARONS, GEORGE H., ... New York, N. Y.
FELLOWS, JOSEPH W., ... Manchester, N. H.
FENTON, HECTOR T., ... Philadelphia, Pa.
FENTON, WILLIAM D., ... Portland, Ore.
FERGUSON, EDWARD A., ... Cincinnati, Ohio.
FERRIS, AARON A., ... Cincinnati, Ohio.
FERRIS, FRANKLIN, ... St. Louis, Mo.
FESLER, JAMES WILLIAM, ... Indianapolis, Ind.
FIELD, FRANK HARVEY, ... Brooklyn, N. Y.
FIELD, HEMAN H., ... Chicago, Ill.
FIERO, J. NEWTON. . . . . Albany, N. Y.
FINCH, EDWARD R., ... New York, N. Y.
FINK, CHARLES E., ... Westminster, Md.
FINKELNBURG, G. A., ... St. Louis, Mo.
FISH, DANIEL, ... Minneapolis, Minn.
FISH, FREDERICK P., ... Boston, Mass.
FISHER, D. D., ... St. Louis, Mo.
FISHER, ROBERT J., ... Washington, D. C.
FISHER, SAMUEL T., ... Washington, D. C.
FISHER, WILLIAM RIGHTER, ... Philadelphia, Pa.
FISSE, WILLIAM E., ... St. Louis, Mo.
FITCH, THEODORE, ... New York, N. Y.
FITZGERALD, JOHN C., ... Pasadena, Cal.
FITZHUGH, HENRY L., ... Fort Smith, Ark.
FLANDERS, JAMES G., ... Milwaukee, Wis.
FLANNERY, JOHN SPALDING, ... Washington, D. C.
FLEISCHMANN, SIMON, ... Buffalo, N. Y.
FLEMING, JOHN D., ... Boulder, Col.
FLETCHER, DUNCAN U., ... Jacksonville, Fla.
FLETCHER, JOHN, ... Little Rock, Ark.
FLEXNER, BERNARD, ... Louisville, Ky.
FLICKINGER, ISAAC N., ... Council Bluffs, Iowa.
FLITCRAFT, PEMBROOK R., ... St. Louis, Mo.
FLOOD, H. D., ... W. Appomattox, Va.
FLORANCE, ERNEST T., ... New Orleans, La.
FLYNN, DENNIS T., ... Oklahoma City, O. T.
FOGARTY, D. G., ... Augusta, Ga.
FOLLANSBEE, GEORGE A., ... Chicago, Ill.
FOLLETT, ALFRED DEWEY, ... Marietta, Ohio.
FOLLETT, MARTIN DEWEY, ... Marietta, Ohio.
FORMAN, BENJAMIN RICE, ... New Orleans, La.
FORSTER, GEORGE M., ... Spokane, Wash.

FORT, J. FRANKLIN, ... East Orange, N. J.
FOSTER, ALFRED D., ... Boston, Mass.
FOSTER, CHARLES E., ... Washington, D. C.
FOSTER, REGINALD, ... Boston, Mass.
FOSTER, ROBERT M., ... St. Louis, Mo.
FOSTER, ROGER, ... New York, N. Y.
FOWLER, A. C., ... St. Louis, Mo.
FOWLER, JO. A., ... Denver, Col.
FOX, AUSTEN G., ... New York, N. Y.
FOX, EDWARD J., ... Easton, Pa.
FRALEY, JOSEPH C., ... Philadelphia, Pa.
FRASER, DANIEL, ... Fowler, Ind.
FRAZIER, ROBERT T., ... Washington, D. C.
FREDERICKS, JOHN T., ... Williamsport, Pa.
FREEDLEY, A. T., ... Philadelphia, Pa.
FREIBERG, A. JULIUS, ... Cincinnati, Ohio.
FRENCH, ARTHUR P., ... Boston, Mass.
FRENCH, ASA P., ... Boston, Mass.
FRENCH, WILLIAM B., ... Boston, Mass.
FREY, PHILIP W., ... Evansville, Ind.
FRIEDMAN, LEE M., ... Boston, Mass.
FRINK, J. S. H., ... Portsmouth, N. H.
FROST, E. ALLEN, ... Chicago, Ill.
FROST, EDWARD W., ... Milwaukee, Wis.
FULKERSON, SAMUEL V., ... Bristol, Va.
FULLER, CLIFFORD W., ... Cleveland, Ohio.
FULLER, GEORGE, ... Los Angeles, Cal.
FULLER, PAUL, ... New York, N. Y.
FULTON, E. L., ... Pawnee, O. T.
FUNKHOUSER, ARTHUR F., ... Evansville, Ind.
FURNESS, WILLIAM ELIOT, ... Chicago, Ill.
FUTRELL, WILLIAM H., ... Philadelphia, Pa.
GABBERT, WILLIAM H., ... Denver, Col.
GABRIEL, JOHN H., ... Denver, Col.
GAGER, EDWIN B., ... Derby, Conn.
GAINES, R. R., ... Austin, Tex.
GAITHER, GEORGE R., JR., ... Baltimore, Md.
GALLAGHER, CHARLES T., ... Boston, Mass.
GANS, EDGAR H., ... Baltimore, Md.
GANTT, JAMES B., ... Jefferson City, Mo.
GARDNER, CHARLES L., ... Springfield, Mass.
GARDNER, JAMES M., ... New York, N. Y.
GARDNER, JOHN M., ... New York, N. Y.
GARDNER, RATHBONE, ... Providence, R. I.
GARFIELD, HARRY A., ... Princeton, N. J.

GARFIELD, JAMES R., ... Washington, D. C.
GARGAN, THOMAS J., ... Boston, Mass.
GARLAND, SPOTTSWOOD, ... Wilmington, Del.
GARNETT, THEODORE S., ... Norfolk, Va.
GARRARD, LOUIS F., ... Columbus, Ga.
GARRETSON, A. Q., ... Morristown, N. J.
GARTSIDE, JOHN M., ... Chicago, Ill.
GARVIN, WILLIAM EVERETT, ... St. Louis, Mo.
GAST, CHARLES E., ... Pueblo, Col.
GATES, EDWARD P., ... Kansas City, Mo.
GATES, THOMAS S., ... Philadelphia, Pa.
GEDDES, FREDERICK L., ... Toledo, Ohio.
GEISTHARDT, STEPHEN L., ... Lincoln, Neb.
GENTRY, NORTH F., ... Jefferson City, Mo.
GEST, JOHN MARSHALL, ... Philadelphia, Pa.
GEYELIN, HENRY LAUSSAT, ... Philadelphia, Pa.
GIBBONS, JOHN, ... Chicago, Ill.
GIBBS, CLINTON B., ... Buffalo, N. Y.
GIBSON, JAMES A., ... Los Angeles, Cal.
GIDDINGS, CHARLES, ... Great Barrington, Mass.
GIFFORD, LIVINGSTON, ... New York, N. Y.
GILBERT, GEORGE G., ... Shelbyville, Ky.
GILBERT, LYMAN D., ... Harrisburg, Pa.
GILES, BRANCH H., ... Denver, Col.
GILL, JOHN, JR., ... Baltimore, Md.
GILLEN, WILLIAM W., ... Jamaica, N. Y.
GILLETTE, FRANK E., ... Anadarke, O. T.
GILLIAM, MARSHALL M., ... Richmond, Va.
GILMORE, EUGENE ALLEN, ... Madison, Wis.
GILMORE, JAMES H., ... Marion, Va.
GILSON, NORMAN S., ... Fond du Lac, Wis.
GIVEN, WILLIAM B., ... Columbia, Pa.
GLASGOW, WILLIAM A., JR., ... Philadelphia, Pa.
GLEASON, JOHN H., ... Albany, N. Y.
GLEN, JAMES F., ... Tampa, Fla.
GLYNN, MARTIN H., ... Albany, N. Y.
GODDARD, LUTHER M., ... Denver, Col.
GODFREY, BURROWS C., ... Atlantic City, N. J.
GOETCHIUS, HENRY R., ... Columbus, Ga.
GOFF, FREDERICK H., ... Cleveland, Ohio.
GOODELL, EDWIN B., ... Montclair, N. J.
GOODELLE, WILLIAM P., ... Syracuse, N. Y.
GOODNER, IVAN W., ... Pierre, S. D.
GORDON, JOHN A., ... Denver, Col.
GORDON, WILLIAM W., JR., ... Savannah, Ga.

GOULD, ASHLEY M. (Washington, D. C.), . . . Silver Spring, Md.
GOULD, JOHN H., ... Delphi, Ind.
GOULDER, HARVEY D., ... Cleveland, Ohio.
GOVE, FRANK E., ... Denver, Col.
GRACE, H. H., ... West Superior, Wis.
GRAFF, M. L., ... Los Angeles, Cal.
GRAHAM, GEORGE S., ... Philadelphia, Pa.
GRANGER, MOSES M., ... Zanesville, Ohio.
GRANT, ALEXANDER, JR., ... Newark, N. J.
GRANT, LEE W., ... St. Louis, Mo.
GRAVES, CHARLES A., ... Charlottesville, Va.
GRAY, GEORGE. . . . . Wilmington, Del.
GRAY, JAMES C., ... Pittsburgh, Pa.
GRAY, JOHN C., ... Boston, Mass.
GRAY, J. CONVERSE, ... Boston, Mass.
GREELEY, ARTHUR P., ... Washington, D. C.
GREELEY, WILLIAM B., ... New York, N. Y.
GREEN, J. W., ... Lawrence, Kan.
GREENE, CHARLES J., ... Omaha, Neb.
GREENE, FREDERICK L., ... Greenfield, Mass.
GREENE, GEORGE G., ... Green Bay, Wis.
GREENE, ROBERT J., ... Lincoln, Neb.
GREENOUGH, WILLIAM B., ... Providence, R. I.
GREGG, FRANK E., ... Denver, Col.
GREGG, MAURICE, ... Baltimore, Md.
GREGORY, CHARLES NOBLE, ... Iowa City, Iowa.
GREGORY, ROGER, ... Richmond, Va.
GREGORY, STEPHEN S., ... Chicago, Ill.
GRESHAM, OTTO, ... Chicago, Ill.
GRIER, ALBERT E., ... Denver, Col.
GRIFFIN, S., ... Bedford City, Va.
GRIFFITH, WARREN G., ... Philadelphia, Pa.
GRIGGS, JOHN W. (New York, N. Y.), ... Paterson, N. J.
GRINNAN, DANIEL, ... Richmond, Va.
GROSSCUP, PETER S., ... Chicago, Ill.
GROSSMAN, EMANUEL M., ... St. Louis, Mo.
GROZIER, JOSHUA, ... Denver, Col.
GRUBBS, CHARLES S., ... Louisville, Ky.
GUERNSEY, NATHANIEL T., ... Des Moines, Iowa.
GUERRIER, S., ... South McAlester, I. T.
GUNNELL, A. T., ... Colorado Springs, Col.
GUNTER, JULIUS C., ... Denver, Col.
GUTHRIE, GEORGE W., ... Pittsburgh, Pa.
GUTHRIE, WILLIAM D., ... New York, N. Y.
HADDEN, ALEXANDER, ... Cleveland, Ohio.

HADLEY, HERBERT S., ... Jefferson City, Mo.
HAFF, DELBERT J., ... Kansas City, Mo.
HAGAN, HENRY M., ... Chicago, Ill.
HAGERMAN, FRANK, ... Kansas City, Mo.
HAGERMAN, JAMES, ... St. Louis, Mo.
HAGERMAN, JAMES, JR., ... St. Louis, Mo.
HAGERMAN, LEE W., ... St. Louis, Mo.
HAGGOTT, W. A., ... Idaho Springs, Col.
HAGNER, ALEXANDER B., ... Washington, D. C.
HAINER, BAYARD T., ... Perry, O. T.
HAINER, EUGENE J., ... Lincoln, Neb.
HALE, CLARENCE, ... Portland, Me.
HALE, RICHARD W., ... Boston, Mass.
HALL, ALBERT H., ... Minneapolis, Minn.
HALL, BORDMAN, ... Boston, Mass.
HALL, HARRY H., ... New Orleans, La.
HALL, HENRY C., ... Colorado Springs, Col.
HALL, JAMES PARKER, ... Chicago, Ill.
HALL, MATTHEW A., ... Omaha, Neb.
HALL, WALKER C., ... Covington, Ky.
HALL, WILLIAM M., JR., ... Pittsburgh, Pa.
HALLETT, MOSES, ... Denver, Col.
HAMILL, HUGH H., ... Trenton, N. J.
HAMILTON, ALEXANDER, ... Petersburg, Va.
HAMILTON, GEORGE EARNEST, ... Washington, D. C.
HAMLIN, CHARLES, ... Bangor, Me.
HAMLIN, CHARLES S., ... Boston, Mass.
HAMLIN, HANNIBAL E., ... Ellsworth, Me.
HAMMOND, EDWIN P., ... La Fayette, Ind.
HAMMOND, JOHN C., ... Northampton, Mass.
HAMMOND, WILLIAM R., ... Atlanta, Ga.
HAMMOND, WILLIAM S., ... Altoona, Pa.
HANCHETT, BENTON, ... Saginaw, W. S., Mich.
HAND, RICHARD L., ... Elizabethtown, N. Y.
HANFORD, SOLOMON, ... New York, N. Y.
HARDCASTLE, THOMAS H., ... Denver, Col.
HARDIN, JOHN R., ... Newark, N. J.
HARDING, CHARLES F., ... Chicago, Ill.
HARGEST, WILLIAM M., ... Harrisburg, Pa.
HARKER, OLIVER A., ... Carbondale, Ill.
HARKLESS, JAMES H., ... Kansas City, Mo.
HARLAN, HENRY D., ... Baltimore, Md.
HARLEY, CHARLES F., ... Baltimore, Md.
HARMON, HENRY A., ... Detroit, Mich.
HARMON, JUDSON, ... Cincinnati, Ohio.

HARPER, JACOB CHANDLER, ... Cincinnati, Ohio.
HARRIMAN, EDWARD AVERY, ... New Haven, Conn.
HARRIS, JOHN T., ... Harrisonburg, Va.
HARRIS, MARION W. . . . . Macon, Ga.
HARRIS, W. O., ... Louisville, Ky.
HARRISON, GEORGE P., ... Opelika, Ala.
HARRISON, LYNDE, ... New Haven, Conn.
HARRISON, RANDOLPH, ... Lynchburg, Va.
HARRISON, WILLIAM B., ... Denver, Col.
HARRITY, WILLIAM F., ... Philadelphia, Pa.
HART, W. O., ... New Orleans, La.
HARTIGAN, MICHEL A., ... Hastings, Neb.
HARTRIDGE, JOHN E., ... Jacksonville, Fla.
HARTSHORNE, CHARLES H., ... Jersey City, N. J.
HARWOOD, THOMAS E., ... Trenton, Tenn.
HASTINGS, W. G., ... Lincoln, Neb.
HATCH, REUBEN, ... Grand Rapids, Mich.
HATTON, GOODRICH, ... Portsmouth, Va.
HAWES, GILBERT RAY, ... New York, N. Y.
HAWKESWORTH, R. W., ... New York, N. Y.
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HAWKINS, ROSCOE O., ... Indianapolis, Ind.
HAYDEN, JAMES H., ... Washington, D. C.
HAYES, THOMAS G., ... Baltimore, Md.
HAYNES, H. N., ... Greeley, Col.
HAYT, CHARLES D., ... Denver, Col.
HAYWOOD, GEORGE P., ... Lafayette, Ind.
HEATH, JAMES ELLIOTT, ... Norfolk, Va.
HEATON, OWEN N., ... Fort Wayne, Ind.
HEBARD, FREDERIC S., ... Chicago, Ill.
HEERMANCE, MARTIN, ... Poughkeepsie, N. Y.
HEFFERMAN, JOHN J., ... Woonsocket, R. I.
HELM, JAMES P., ... Louisville, Ky.
HELM, LYNN, ... Los Angeles, Cal.
HEMENWAY, ALFRED, ... Boston, Mass.
HEMPHILL, JOSEPH, ... West Chester, Pa.
HENDERSON, DAVID B., ... Dubuque, Iowa.
HENDERSON, G. MC., ... Rutledge, Tenn.
HENDERSON, JOHN M., ... Cleveland, Ohio.
HENDERSON, ROBERT R., ... Cumberland, Md.
HENSEL, W. U., ... Lancaster, Pa.
HENSON, W. J., ... Pearisburg, Va.
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HERENDEEN, EDWARD G., ... Elmira, N. Y.
HERNDON, JOHN C., ... Prescott, Ariz.

HERRICK, JOHN J., ... Chicago, Ill.
HERRINGTON, CASS E., ... Denver, Col.
HERSEY, HENRY J., ... Denver, Col.
HEUISLER, CHARLES W., ... Baltimore, Md.
HEWITT, LUTHER E., ... Philadelphia, Pa.
HICKS, JOHN T., ... Little Rock, Ark.
HIESTER, ISAAC. . . . . Reading, Pa.
HIGDON, JOHN C., ... St. Louis, Mo.
HIGGINBOTHAM, C. C., ... Buckhannon, W. Va.
HIGGINS, ANTHONY, ... Wilmington, Del.
HIGGINS, FRANK M., ... Limerick, Me.
HIGGINS, JAMES H., ... Pawtucket, R. I.
HIGGINS, WILLIAM E., ... Lawrence, Kan.
HILL, ARTHUR DEHON, ... Boston, Mass.
HILL, JOSEPH M., ... Little Rock, Ark.
HILL, LYSANDER, ... Chicago, Ill.
HILLES, WILLIAM S., ... Wilmington, Del.
HILLS, W. J., ... Juneau, Alaska.
HINCKLEY, FRANK L., ... Providence, R. I.
HINE, LEMON G., ... Washington, D. C.
HINES, CLARK B., ... Bellville, Ohio.
HINKLEY, JOHN, ... Baltimore, Md.
HINTON, EDWARD W., ... Columbia, Mo.
HIRSCHBERG, HENRY, ... Brooklyn, N. Y.
HISKY, THOMAS FOLEY, ... Baltimore, Md.
HOADLY, GEORGE, JR., ... Cincinnati, Ohio.
HODGES, GEORGE L., ... Denver, Col.
HODGES, WILLIAM C., ... Tallahassee, Fla.
HOGAN, JOHN W., ... Providence, R. I.
HOGATE, ENOCH G., ... Bloomington, Ind.
HOGSETT, THOMAS H., ... Cleveland, Ohio.
HOLDOM, JESSE, ... Chicago, Ill.
HOLLISTER, THOMAS, ... Cincinnati, Ohio.
HOLMAN, FREDERICK V., ... Portland, Ore.
HOLSMAN, HENRY B., ... Guthrie Center, Iowa.
HOLT, WILLIAM G., ... Kansas City, Kan.
HOOD, THOMAS H., ... Denver, Col.
HOPKINS, EVAN H., ... Cleveland, Ohio.
HOPKINS, JAMES L., ... St. Louis, Mo.
HORNBLOWER, WILLIAM B., ... New York, N. Y.
HORNER, JOHN J., ... Helena, Ark.
HOTCHKISS, WILLIAM HORACE, ... Buffalo, N. Y.
HOUGH, WARWICK M., ... St. Louis, Mo.
HOUTS, CHARLES A., ... St. Louis, Mo.
HOWARD, CHARLES MORRIS, ... Baltimore, Md.

HOWARD, GEORGE H., ... Washington, D. C.
HOWE, ELMER P., ... Boston, Mass.
HOWE, WILLIAM WIRT, ... New Orleans, La.
HOWELL, WILLIAM C., ... Keokuk, Iowa.
HOWLAND, PAUL, ... Cleveland, Ohio.
HOWRY, CHARLES B. (Washington, D. C.), . . . Oxford, Miss.
HOWSON, CHARLES, ... Philadelphia, Pa.
HOYT, HENRY M. (Washington, D. C.), ... Philadelphia, Pa.
HOYT, HIRAM J., ... Muskegon, Mich.
HOYT, JAMES H., ... Cleveland, Ohio.
HOYT, LUCIUS W., ... Denver, Col.
HUBBARD, HARRY, ... New York, N. Y.
HUBBARD, THOMAS H., ... New York, N. Y.
HUBBARD, WILLIAM P., ... Wheeling, W. Va.
HUFFAKER, FRANCIS M., ... Virginia City, Nev.
HUFFCUT, E. W., ... Ithaca, N. Y.
HUGHES, ALLEN, ... Jonesboro, Ark.
HUGHES, CHARLES E., ... New York, N. Y.
HUGHES, CHARLES J., JR., ... Denver, Col.
HUGHES, D. H., ... Paducah, Ky.
HUGHES, E. C., ... Seattle, Wash.
HUGHES, ROBERT M., ... Norfolk, Va.
HUGHES, THOMAS, ... Baltimore, Md.
HUNDLEY, OSCAR R., ... Huntsville, Ala.
HUNSAKER, WILLIAM J., ... Los Angeles, Cal.
HUNT, CARLETON, ... New Orleans, La.
HUNT, CHARLES J., ... Cincinnati, Ohio.
HUNT, SAMUEL F., ... Cincinnati, Ohio.
HUNTER, CHARLES F., ... Milwaukee, Wis.
HUNTER, ERNEST HOWARD, ... Philadelphia, Pa.
HUNTER, ROBERT, ... Sioux City, Iowa.
HUNTER, WILLIAM R., ... Kankakee, Ill.
HUNTON, EPPA, JR., ... Richmond, Va.
HURD, HENRY N., ... Manchester, N. H.
HURLBUTT, HENRY F., ... Boston, Mass.
HUSTON, ABRAHAM H., ... Guthrie, O. T.
HUTCHINS, HARRY B., ... Ann Arbor, Mich.
HUTCHINSON, BARTON B., ... Trenton, N. J.
HYDE, JAMES W., ... Chicago, Ill.
HYDE, WESLEY W., ... Grand Rapids, Mich.
HYDE, WILLIAM W., ... Hartford, Conn.
INGALSBE, GRENVILLE M., ... Sandy Hill, N. Y.
INGERSOLL, HENRY H., ... Knoxville, Tenn.
INGLER, FRANCIS M., ... Muncie, Ind.
INNES, CHARLES H., ... Boston, Mass.

IRVINE, FRANK, ... Ithaca, N. Y.
IRWIN, C. F., ... El Reno, O. T.
ISHAM, WILLIAM H., ... Fowler, Ind.
IVES, J. MOSS, ... Danbury, Conn.
JACKSON, CLIFFORD L., ... Muskogee, I. T.
JACKSON, GEORGE P. B., ... St. Louis, Mo.
JACKSON, WILLIAM H., ... New York, N. Y.
JAGGARD, EDWIN A., ... St. Paul, Minn.
JAMES, FRANCIS B., ... Cincinnati, Ohio.
JAMESON, OVID B., ... Indianapolis, Ind.
JANUARY, WILLIAM L., ... Detroit, Mich.
JAYNE, H. LABARRE, ... Philadelphia, Pa.
JEFFRIS, MALCOLM G., ... Janesville, Wis.
JELLINEK, EDWARD L., ... Buffalo, N. Y.
JENCKES, THOMAS A., ... Providence, R. I.
JENKINS, JAMES G., ... Milwaukee, Wis.
JENNINGS, ANDREW J., ... Fall River, Mass.
JENNINGS, ROBERT W., ... Juneau, Alaska.
JOHNSON, BENJAMIN N., ... Boston, Mass.
JOHNSON, FRANK ASBURY, ... Chicago, Ill.
JOHNSON, GEORGE S., ... St. Louis, Mo.
JOHNSON, HOMER H., ... Cleveland, Ohio.
JOHNSON, SIMEON M., ... Cincinnati, Ohio.
JOHNSTON, THOMAS J., ... New York, N. Y.
JOLINE, ADRIAN H., ... New York, N. Y.
JONES, ASAHEL W., ... Youngstown, Ohio.
JONES, BURR W., ... Madison, Wis.
JONES, GEORGE W., ... Montgomery, Ala.
JONES, GUSTAVE, ... Newport, Ark.
JONES, J. LEVERING, ... Philadelphia, Pa.
JONES, JOHN J., ... Chanute, Kan.
JONES, LEONARD A., ... Boston, Mass.
JONES, RANKIN D., ... Cincinnati, Ohio.
JONES, RICHMOND L., ... Reading, Pa.
JONES, W. MARTIN, ... Rochester, N. Y.
JOSLIN, JAMES T., ... Hudson, Mass.
JOSS, FREDERICK A., ... Indianapolis, Ind.
JOURDAN, MORTON, ... St. Louis, Mo.
JUDSON, FREDERICK N., ... St. Louis, Mo.
JUNKIN, FRANCIS T. A., ... Chicago, Ill.
KALISH, EDWIN L., ... New York, N. Y.
KANE, FRANCIS FISHER, ... Philadelphia, Pa.
KANE, MATTHEW J., ... Kingfisher, O. T.,
KAPPLER, CHARLES J., ... Washington, D. C.
KARCHER, GEORGE H., ... Chicago, Ill.

Karnes, J. V. C., ... Kansas City, Mo.
Kay, James I., ... Pittsburgh, Pa.
Kay, William E., ... Brunswick, Ga.
Keasbey, Edward Q., ... Newark, N. J.
Keator, John F., ... Philadelphia, Pa.
Keener, William A., ... New York, N. Y.
Keeney, Willard F., ... Grand Rapids, Mich.
Kehr, Edward C., ... St. Louis, Mo.
Kellen, William V., ... Boston, Mass.
Kelley, William H., ... Richmond, Ind.
Kellogg, E. Barstow, ... New York, N. Y.
Kellogg, Frank B., ... St. Paul, Minn.
Kellogg, L. Laflin, ... New York, N. Y.
Kelly, Ronald, ... Detroit, Mich.
Kemp, Wyndham, ... El Paso, Tex.
Kenna, Edward D., ... Chicago, Ill.
Kennedy, Crammond, ... Washington, D. C.
Kennon, Newell K., ... St. Clairsville, Ohio.
Kent, Charles A., ... Detroit, Mich.
Kent, Edward, ... Phœnix, Ariz.
Kenyon, William H., ... New York, N. Y.
Kern, John W., ... Indianapolis, Ind.
Kernan, Thomas J., ... Baton Rouge, La.
Kerr, Thomas B., ... New York, N. Y.
Kerr, William A., ... Minneapolis, Minn.
Kerwin, J. C., ... Madison, Wis.
Ketcham, William A., ... Indianapolis, Ind.
Keysor, William W., ... St. Louis, Mo.
Kibler, Edward, ... Newark, Ohio.
Kiddle, Alfred W., ... New York, N. Y.
Kilby, Wilbur J., ... Suffolk, Va.
Killian, James R., ... Denver, Col.
Kilvert, Thomas, ... New York, N. Y.
King, Edmund B., ... Sandusky, Ohio.
King, George A., ... Washington, D. C.
King, Henry W. (New York, N. Y.), ... Worcester, Mass.
Kingsley, Willard, ... Grand Rapids, Mich.
Kinkaid, M. P., ... O'Neill, Neb.
Kinne, Edward D., ... Ann Arbor, Mich.
Kinne, L. G., ... Des Moines, Iowa.
Kinney, Clesson S., ... Salt Lake City, Utah.
Kinsler, James C., ... Omaha, Neb.
Kirchwey, George W., ... New York, N. Y.
Kirlin, J. Parker, ... New York, N. Y.
Kirten, William, ... Lake Village, Ark.

KLEIN, JACOB, ... St. Louis, Mo.
KLINE, VIRGIL P., ... Cleveland, Ohio.
KNAPP, HOWARD H., ... Bridgeport, Conn.
KNAPPEN, LOYAL E., ... Grand Rapids, Mich.
KNAUTH, ANTONIO, ... New York, N. Y.
KNIGHT, W. J., ... Dubuque, Iowa.
KNIGHT, WALTER A., ... Cincinnati, Ohio.
KNOTT, A. LEO, ... Baltimore, Md.
KNOX, CHARLES H., ... New York, N. Y.
KNOX, P. C. (Washington, D. C.), ... Pittsburgh, Pa.
KOHN, AARON, ... Louisville, Ky.
KORNEGAY, W. H., ... Vinita, I. T.
KRAMER, EDWARD C., ... East St. Louis, Ill.
KRAUTHOFF, L. C., ... New York, N. Y.
KRETSINGER, E. O., ... Beatrice, Neb.
KRETZINGER, GEORGE W., ... Chicago, Ill.
KRUTTSCHNITT, ERNEST B., ... New Orleans, La.
KULP, GEORGE B., ... Wilkes Barre, Pa.
LACEY, JOHN W., ... Cheyenne, Wyo.
LACKNER, FRANCIS, ... Chicago, Ill.
LADD, BABSON S., ... Boston, Mass.
LADD, NATHANIEL W., ... Boston, Mass.
LADD, SANFORD B., ... Kansas City, Mo.
LAMAR, JOSEPH R., ... Augusta, Ga.
LAMB, SAMUEL O., ... Greenfield, Mass.
LAMBERTON, C. L., ... New York, N. Y.
LAMBERTON, JAMES M., ... Harrisburg, Pa.
LANCASTER, CHARLES C., ... Washington, D. C.
LANCASTER, WILLIAM A., ... Minneapolis, Minn.
LANDIS, CHARLES I., ... Lancaster, Pa.
LANGDON, MARTIN, ... Omaha, Neb.
LANNING, WILLIAM M., ... Trenton, N. J.
LARIMER, JEREMIAH B., ... Topeka, Kan.
LARNER, JOHN B., ... Washington, D. C.
LATHROP, GARDINER, ... Kansas City, Mo.
LAWLER, OSCAR, ... Los Angeles, Cal.
LAWRENCE, JAMES, ... Cleveland, Ohio.
LAWSON, JOHN D., ... Columbia, Mo.
LAWSON, WILLIAM C., ... Chicago, Ill.
LAWTON, ALEXANDER R., ... Savannah, Ga.
LEA, OVERTON, ... Nashville, Tenn.
LEAKE, HUNTER C., ... New Orleans, La.
LEAKEN, WILLIAM R., ... Savannah, Ga.
LEAKIN, J. WILSON, ... Baltimore, Md.
LEAVITT, JOHN BROOKS, ... New York, N. Y.

LECKIE, A. E. L., ... Washington, D. C.
LEDBETTER, WALTER A., ... Ardmore, I. T.
LEE, BLAIR (Washington, D. C.), ... Silver Spring, Md.
LEE, BLEWETT, ... Chicago, Ill.
LEE, JOHN F., ... St. Louis, Mo.
LEGÈNDRE, JAMES, ... New Orleans, La.
LEHMANN, FRED. W., ... St. Louis, Mo.
LENEHAN, DANIEL J., ... Dubuque, Iowa.
LESH, U. S., ... Huntington, Ind.
LETTON, CHARLES B., ... Fairbury, Neb.
LEVINSON, S. O., ... Chicago, Ill.
LEVIS, HOWARD C. (London, England), ... Schenectady, N. Y.
LEVY, JOSEPH L., ... New York, N. Y.
LEWIS, FRANCIS D., ... Philadelphia, Pa.
LEWIS, JOHN F., ... Philadelphia, Pa.
LEWIS, JOHN H., ... Lynchburg, Va.
LEWIS, LUNSFORD L., ... Richmond, Va.
LEWIS, W. DRAPER, ... Philadelphia, Pa.
LIBBY, CHARLES F., ... Portland, Me.
LIDDON, BENJ. S., ... Marianna, Fla.
LIGHTNER, CLARENCE A., ... Detroit, Mich.
LINCOLN, SOLOMON, ... Boston, Mass.
LINDSAY, WILLIAM, ... New York, N. Y.
LINDSEY, EDWARD, ... Warren, Pa.
LINDSLEY, HENRY A., ... Denver, Col.
LINDSLEY, PHILIP, ... Dallas, Tex.
LIONBERGER, ISAAC H., ... St. Louis, Mo.
LITTLEFIELD, CHARLES E., ... Rockland, Me.
LITTLEFIELD, NATHAN W., ... Providence, R. I.
LITTLEFIELD, WALTER, ... Kansas City, Mo.
LITTLETON, MARTIN W., ... Brooklyn, N. Y.
LLOYD, MALCOLM, JR., ... Philadelphia, Pa.
LOCKWOOD, VIRGIL H., ... Indianapolis, Ind.
LOESCH, FRANK J., ... Chicago, Ill.
LOGAN, WALTER S., ... New York, N. Y.
LONDON, ALEXANDER T., ... Birmingham, Ala.
LONG, ARMISTEAD R., ... Lynchburg, Va.
LONGUEVILLE, J. C., ... Dubuque, Iowa.
LORE, CHARLES B., ... Wilmington, Del.
LOWDEN, FRANK O., ... Chicago, Ill.
LOWELL, JOHN, ... Boston, Mass.
LUDWIG, JOHN C., ... Milwaukee, Wis.
LUNT, HORACE G., ... Colorado Springs, Col.
LUSK, ROBERT, ... Nashville, Tenn.
LYLES, WILLIAM H., ... Columbia, S. C.

LYMAN, RICHARD E., ... Providence, R. I.
LYON, ADRIAN, ... Perth Amboy, N. J.
LYON, MONTAGUE, ... St. Louis, Mo.
LYON, WALTER, ... Pittsburgh, Pa.
LYONS, MARTIN, ... Marshall, Mo.
LYSTER, HENRY L., ... Detroit, Mich.
MACFARLAND, W. W., ... New York, N. Y.
MACK, JULIAN W., ... Chicago, Ill.
MACK, WILLIAM, ... New York, N. Y.
MACKALL, WILLIAM W., ... Savannah, Ga.
MACKEY, ARTHUR M., ... Pond Creek, O. T.
MACKOY, HARRY BRENT (Cincinnati, Ohio), . . Covington, Ky.
MACKOY, WILLIAM H. (Cincinnati, Ohio), . . . Covington, Ky.
MACPHERSON, ERNEST, ... Louisville, Ky.
MACVEAGH, WAYNE, ... Washington, D. C.
MADDOX, SAMUEL, ... Washington, D. C.
MADIGAN, JOHN B., ... Houlton, Me.
MAFFETT, JAMES T., ... Clarion, Pa.
MAHAN, GEORGE A., ... Hannibal, Mo.
MAHONEY, TIMOTHY J., ... Omaha, Neb.
MAJOR, SAMUEL C., ... Fayette, Mo.
MALONE, DANA, ... Greenfield, Mass.
MALONE, THOMAS H., ... Nashville, Tenn.
MALTBIE, THEODORE M., ... Hartford, Conn.
MANDERSON, CHARLES F., ... Omaha, Neb.
MANLY, CLEMENT, ... Winston-Salem, N. C.
MANLY, GEORGE C., ... Denver, Col.
MANNING, WILLIAM J., ... Chicago, Ill.
MARBURY, WILLIAM L., ... Baltimore, Md.
MARLATT, HERBERT R., ... St. Louis, Mo.
MARTIN, HENRY B., ... Perry, O. T.
MARTIN, HORACE H., ... Chicago, Ill.
MARTIN, J. WILLIS, ... Philadelphia, Pa.
MARTIN, THOMAS B., ... Little Rock, Ark.
MARTIN, WOLSEY R., ... Fort Smith, Ark.
MARTINDALE, CHARLES, ... Indianapolis, Ind.
MASON, ALFRED F., ... St. Paul, Minn.
MASSEY, LOUIS C., ... Orlando, Fla.
MASSIE, EUGENE C., ... Richmond, Va.
MATHER, ROBERT, ... Chicago, Ill.
MATTERS, THOMAS H., ... Harvard, Neb.
MATTHEWS, C. BENTLEY, ... Cincinnati, Ohio.
MAURO, PHILIP, ... Washington, D. C.
MAXWELL, LAWRENCE, JR., ... Cincinnati, Ohio.
MAY, HENRY F., ... Denver, Col.

MAYFIELD, J. E., ... Cleveland, Tenn.
MEARES, IREDELLE, ... Wilmington, N. C.
MECHEM, FLOYD R., ... Chicago, Ill.
MECHEM, HOMER C., ... Fort Smith, Ark.
MELDRIM, P. W., ... Savannah, Ga.
MERCER, GEORGE GLUYAS, ... Philadelphia, Pa.
MERCER, HUGH V., ... Minneapolis, Minn.
MERCHANT, HENRY D., ... New York, N. Y.
MERCUR, RODNEY A., ... Towanda, Pa.
MEREDITH, CHARLES V., ... Richmond, Va.
MERRICK, CHARLES D., ... Parkersburg, W. Va.
MERRICK, EDWIN T., ... New Orleans, La.
MERRICK, GEORGE PECK, ... Chicago, Ill.
MERRILL, JOSEPH HANSELL, ... Thomasville, Ga.
MERRIMAN, CHARLES A., ... Idaho Falls, Ida.
MERVINE, NICHOLAS P., ... Altoona, Pa.
MESTREZAT, S. LESLIE . . . . . Uniontown, Pa.
METCALF, CHARLES W., ... Memphis, Tenn.
MEYERS, SIDNEY S., ... New York, N. Y.
MICHENER, L. T., ... Washington, D. C.
MIKELL, WILLIAM E., ... Philadelphia, Pa.
MILBURN, JOHN G., ... New York, N. Y.
MILES, JOSHUA W., ... Princess Anne, Md.
MILES, OSCAR L., ... Fort Smith, Ark.
MILLER, AUGUSTUS S., ... Providence, R. I.
MILLER, BENJAMIN K., ... Milwaukee, Wis.
MILLER, CHARLES W., ... Goshen, Ind.
MILLER, CLARENCE H., ... Austin, Tex.
MILLER, E. SPENCER, ... Philadelphia, Pa.
MILLER, FRANK H., ... Augusta, Ga.
MILLER, GEORGE P., ... Milwaukee, Wis.
MILLER, HUGH GORDON, ... New York, N. Y.
MILLER, JOHN S., ... Chicago, Ill.
MILLER, N. DUBOIS, ... Philadelphia, Pa.
MILLER, T. S., ... Dallas, Tex.
MILLER, WILLIAM K., ... Augusta, Ga.
MILLER, WILLIAM N., ... Parkersburg, W. Va.
MILLER, WILLIAM W., ... New York, N. Y.
MILLIKEN, JOHN D., ... McPherson, Kan.
MILLS, J. WARNER, ... Denver, Col.
MILNOR, M. CLEILAND, ... New York, N. Y.
MINER, SIDNEY R., ... Wilkes Barre, Pa.
MINOR, BENJAMIN S., ... Washington, D. C.
MINOR, RALEIGH C., ... Charlottesville, Va.
MITCHELL, CHARLES E., ... New Britain, Conn.

MOFFIT, JOHN T., ... Tipton, Iowa.
MOHUN, BARRY, ... Washington, D. C.
MOLLOHAN, WESLEY, ... Charleston, W. Va.
MONROE, CHARLES, ... Los Angeles, Cal.
MONTGOMERY, CARROLL S., ... Omaha, Neb.
MONTGOMERY, M. A., ... Oxford, Miss.
MONTGOMERY, OSCAR H., ... Seymour, Ind.
MOODY, WILLIAM H. (Washington, D. C.), . . . Haverhill, Mass.
MOORE, F. A., ... Salem, Ore.
MOORE, JOHN BASSETT, ... New York, N. Y.
MOORE, JOHN M., ... Little Rock, Ark.
MOORE, J. MCCABE, ... Kansas City, Kan.
MOORE, JOSEPH B., ... Lansing, Mich.
MOORE, M. HERNDON, ... Columbia, S. C.
MOORE, WILLIAM A., ... Detroit, Mich.
MOORES, CHARLES W., ... Indianapolis, Ind.
MOORES, MERRILL, ... Indianapolis, Ind.
MOOT, ADELBERT, ... Buffalo, N. Y.
MORDECAI, T. MOULTRIE, ... Charleston, S. C.
MORGAN, CHARLES E., JR., ... Philadelphia, Pa.
MORGAN, RANDAL, ... Philadelphia, Pa.
MORRIS, HOWARD, ... Milwaukee, Wis.
MORRIS, JOHN, ... Fort Wayne, Ind.
MORRIS, M. F., ... Washington, D. C.
MORRIS, THOMAS J., ... Baltimore, Md.
MORRISON, ROBERT E., ... Prescott, Ariz.
MORSE, A. PORTER, ... Washington, D. C.
MORSE, GODFREY, ... Boston, Mass.
MORSE, ROBERT M., ... Boston, Mass.
MORSE, WALDO G., ... New York, N. Y.
MORTON, J. R., ... Lexington, Ky.
MORTON, MARCUS, ... Boston, Mass.
MOSES, ADOLPH, ... Chicago, Ill.
MOSES, RAPHAEL J., ... New York, N. Y.
MOULTON, HENRY P., ... Salem, Mass.
MOUNTCASTLE, R. E. L., ... Knoxville, Tenn.
MOWER, GEORGE SEWELL, ... Newberry, S. C.
MULLIN, EUGENE, ... Bradford City, Pa.
MULLIN, MICHAEL A., ... Baltimore, Md.
MUNFORD, BEVERLEY B., ... Richmond, Va.
MUNGER, W. H., ... Omaha, Neb.
MUNROE, WILLIAM A., ... Boston, Mass.
MUNSON, C. LARUE, ... Williamsport, Pa.
MURPHY, DANIEL D., ... Elkader, Iowa.
MUSGRAVE, HARRISON, ... Chicago, Ill.

MYERS, JAMES J., ... Boston, Mass.
MYERS, NATHANIEL, ... New York, N. Y.
MYERS, QUINCY A., ... Logansport, Ind.
MCALLISTER, HENRY, JR., ... Colorado Springs, Col.
MCALLISTER, J. T., ... Hot Springs, Va.
MCALPIN, HENRY. . . . . Savannah, Ga.
MCCAFFREY, JOSEPH J., ... Providence, R. I.
MCCALL, EDWARD E., ... New York, N. Y
MCCAMMON, JOSEPH K., ... Washington, D. C.
MCCANDLESS, A. D., ... Wymore, Neb.
MCCARTER, ROBERT H., ... Newark, N. J.
MCCARTHY, P. J., ... Providence, R. I.
MCCLAIN, EMLIN, ... Iowa City, Iowa.
MCCLELLAN, THOMAS N., ... Montgomery, Ala.
MCCLENCH, WILLIAM W., ... Springfield, Mass.
MCCLINTOCK, ANDREW H., ... Wilkes Barre, Pa.
MCCLOSKEY, BERNARD, ... New Orleans, La.
MCCLUNG, WM. H., ... Pittsburgh, Pa.
MCCLURE, HAROLD M., ... Lewisburg, Pa.
MCCOMAS, LOUIS E., ... Williamsport, Md.
MCCONLOGUE, JAMES H., ... Mason City, Iowa.
MCCOOK, JOHN J., ... New York, N. Y.
MCCORDIC, ALFRED E., ... Chicago, Ill.
MCCRARY, A. J., ... Binghamton, N. Y.
MCCREERY, JAMES W., ... Greeley, Col.
MCCULLOUGH, JOHN G., ... No. Bennington, Vt.
MCDERMOTT, EDWARD J., ... Louisville, Ky.
MCDONALD, J. WADE, ... San Diego, Cal.
MCDONNELL, THOS. F. I., ... Providence, R. I.
MCDONOUGH, JAMES B., ... Fort Smith, Ark.
MCELROY, JOHN H., ... Chicago, Ill.
MCEVOY, JOHN W., ... Lowell, Mass.
MCGARRY, THOMAS F., ... Jacksonville, Fla.
MCGILL, J. NOTA, ... Washington, D. C.
MCHUGH, CHARLES A., ... Roanoke, Va.
MCHUGH, WILLIAM D., ... Omaha, Neb.
MCINTOSH, JAMES H., ... New York, N. Y.
MCKEE, CHARLES H., ... Pittsburgh, Pa.
MCKEIGHAN, JOHN E., ... St. Louis, Mo.
MCKENNEY, FREDERIC D., ... Washington, D. C.
MCKINNEY, WILLIAM M., ... Northport, N. Y.
MCKNIGHT, RICHARD, ... Denver, Col.
MCLAUGHLIN, FREDERICK C., ... New York, N. Y.
MCLAUGHLIN, JOHN D., ... Boston, Mass.
MCLEAN, DONALD, ... New York, N. Y.

McLeod, W. D., ... Kansas City, Mo.
McMahon, John J., ... Columbia, S. C.
McMahon, J. Sprigg, ... Dayton, Ohio.
McNulty, William D., ... New York, N. Y.
McWhorter, Hamilton, ... Athens, Ga.
Nagel, Charles, ... St. Louis, Mo.
Nathan, Joseph H., ... Sheffield, Ala.
Needham, Charles W., ... Washington, D. C.
New, Alexander, ... Kansas City, Mo.
Newberger, Louis, ... Indianapolis, Ind.
Newman, Jacob, ... Chicago, Ill.
Newton, Henry G., ... New Haven, Conn.
Nichols, George L., ... New York, N. Y.
Nichols, H. S. P., ... Philadelphia, Pa.
Nicholson, John R., ... Dover, Del.
Nicolson, John, Jr., ... New York, N. Y.
Nields, Benjamin, ... Wilmington, Del.
Nields, John P., ... Wilmington, Del.
Niles, Alfred S., ... Baltimore, Md.
Niles, Henry C., ... York, Pa.
Niles, William H., ... Lynn, Mass.
Noble, Daniel, ... Long Island City, N. Y.
Noble, Herbert, ... New York, N. Y.
Noble, John W., ... St. Louis, Mo.
Noel, James W., ... Indianapolis, Ind.
Norris, Mark, ... Grand Rapids, Mich.
Norris, Myron A., ... Youngstown, Ohio.
Norris, Samuel, ... Bristol, R. I.
Norris, William H., ... Manchester, Iowa.
North, E. D., ... Lancaster, Pa.
North, Hugh M., ... Columbia, Pa.
Northrup, Elliott J., ... Urbana, Ill.
Nutter, George R., ... Boston, Mass.
Oakes, Edward L., ... Telluride, Col.
O'Brien, Thomas J., ... Grand Rapids, Mich.
O'Byrne, M. A., ... Savannah, Ga.
O'Connor, E. DeV., ... Providence, R. I.
O'Donnell, Thomas J., ... Denver, Col.
Offield, Charles K., ... Chicago, Ill.
Ogden, Charles W., ... San Antonio, Tex.
Ogden, Howard N., ... Chicago, Ill.
Ogden, Lewis M., ... Milwaukee, Wis.
Olcott, J. Van Vechten, ... New York, N. Y.
Oldham, Willis D., ... Kearney, Neb.
Olmstead, James M., ... Boston, Mass.

OLMSTEAD, MARLIN E., ... Harrisburg, Pa.
OLNEY, RICHARD, ... Boston, Mass.
OLNEY, WARREN, ... San Francisco, Cal.
O'NEILL, HARRY E. . . . . Omaha, Neb.
OPDYKE, WILLIAM S., ... New York, N. Y.
ORRICK, ALLEN C., ... St. Louis, Mo.
ORTON, PHILO A., ... Darlington, Wis.
OSGOOD, HOWARD L., ... Rochester, N. Y.
OSTRANDER, RUSSELL C., ... Lansing, Mich
OTIS, EPHRAIM A., ... Chicago, Ill.
OTIS, GEORGE E., ... San Bernardino, Cal.
OTTOFY, L. FRANK, ... St. Louis, Mo.
OWENS, GEORGE W., ... Savannah, Ga.
PADEN, JOSEPH E., ... Chicago, Ill.
PAGE, GEORGE T., ... Peoria, Ill.
PAGE, HENRY, ... Princess Anne, Md.
PAGE, HOWARD W., ... Philadelphia, Pa.
PAGE, ROSEWELL, ... Richmond, Va.
PAGE, S. DAVIS, ... Philadelphia, Pa.
PAGE, THOMAS NELSON, ... Washington, D. C.
PALMER, CLARENCE S., ... Kansas City, Mo.
PALMER, HENRY W., ... Wilkes Barre, Pa.
PALMER, TRUMAN F., ... Monticello, Ind.
PANCOAST, CHARLES E., ... Philadelphia, Pa.
PANCOAST, J. L., ... Alva, O. T.
PARKER, ALTON B., ... Kingston, N. Y.
PARKER, CHARLES W., ... Jersey City, N. J.
PARKER, CHAUNCEY G., ... Newark, N. J.
PARKER, CORTLANDT, ... Newark, N. J.
PARKER, CORTLANDT, JR., ... Newark, N. J.
PARKER, HERBERT, ... Worcester, Mass.
PARKER, LEWIS W., ... Chicago, Ill.
PARKER, R. WAYNE, ... Newark, N. J.
PARKHURST, JOHN G., ... Coldwater, Mich.
PARKINSON, ROBERT H., ... Chicago, Ill.
PARSONS, CHARLES C., ... Denver, Col.
PARSONS, HINSDILL, ... Schenectady, N. Y.
PATTERSON, GEORGE S., ... Philadelphia, Pa.
PATTERSON, JOHN C., ... Marshall, Mich.
PATTERSON, JOHN H., ... Pontiac, Mich.
PATTERSON, LINDSAY, ... Winston-Salem, N. C.
PATTERSON, M. R., ... Columbus, Ohio.
PATTERSON, ROSWELL H., ... Scranton, Pa.
PATTERSON, T. ELLIOTT, ... Philadelphia, Pa.
PATTERSON, THOMAS, ... Pittsburgh, Pa.

PATTESON, S. S. P., ... Richmond, Va.
PATTON, JOHN, ... Grand Rapids, Mich.
PAUL, A. C., ... Minneapolis, Minn.
PAYNE, JAMES G., ... Washington, D. C.
PAYSON, EDWARD P., ... Boston, Mass.
PEABODY, AUGUSTUS S., ... Chicago, Ill.
PEALE, S. R., ... Lock Haven, Pa.
PEARL, FRANCIS H., ... Haverhill, Mass.
PECK, EPAPHRODITUS, ... Bristol, Conn.
PECK, GEORGE R., ... Chicago, Ill.
PEIRCE, EDWARD B., ... Little Rock, Ark.
PENFIELD, W. L. (Washington, D. C.), ... Auburn, Ind.
PENNYPACKER, CHARLES H., ... West Chester, Pa.
PENNYPACKER, SAMUEL W., ... Harrisburg, Pa.
PEPPER, GEORGE WHARTON, ... Philadelphia, Pa.
PERELES, JAMES M., ... Milwaukee, Wis.
PERELES, THOMAS JEFFERSON, ... Milwaukee, Wis.
PERKINS, DAVID WALTER, ... Manchester, N. H.
PERKINS, LUCIUS H., ... Lawrence, Kan.
PERKINS, ROBERT J., ... New Orleans, La.
PERKINS, WILLIAM H., JR., ... Baltimore, Md.
PERRY, R. ROSS, JR., ... Washington, D. C.
PERRY, WILLIAM C., ... Kansas City, Mo.
PETTIT, HORACE, ... Philadelphia, Pa.
PETTY, ROBERT D., ... New York, N. Y.
PHELPS, CHARLES, ... Rockville, Conn.
PHELPS, CHARLES E., ... Baltimore, Md.
PHILIPS, JOHN F., ... Kansas City, Mo.
PHILLIPS, NELSON, ... Dallas, Tex.
PHLEGAR, ARCHER A., ... Christiansburg, Va.
PICKENS, SAMUEL O., ... Indianapolis, Ind.
PICKENS, WILLIAM A., ... Indianapolis, Ind.
PICKETT, CHARLES C., ... Urbana, Ill.
PICKMAN, JOHN J., ... Lowell, Mass.
PICKRELL, JOHN, ... Richmond, Va.
PIERCE, E. C., ... Providence, R. I.
PIERCE, EDWARD P., ... Fitchburg, Mass.
PIERCE, WINSLOW S., ... New York, N. Y.
PILCHER, JAMES S., ... Nashville, Tenn.
PINGREY, D. H., ... Bloomington, Ill.
PINKERTON, ALFRED S., ... Worcester, Mass.
PIRTLE, JAMES S., ... Louisville, Ky.
POE, JOHN PRENTISS, ... Baltimore, Md.
POND, ASHLEY, ... Detroit, Mich.
PORTER, VALENTINE MOTT, ... St. Louis, Mo.

PORTER, WILLIAM D.,	Pittsburgh, Pa.
POTTER, CHARLES N.,	Cheyenne, Wyo.
POTTER, DEXTER B.,	Providence, R. I.
POTTER, FREDERICK,	New York, N. Y.
POTTER, WILLIAM P.,	Pittsburgh, Pa.
POUND, ROSCOE,	Lincoln, Neb.
POWERS, FREDERICK A.,	Houlton, Me.
PRATT, WALLACE,	Kansas City, Mo.
PRENTIS, ROBERT R.,	Suffolk, Va.
PRESSLY, CHARLES P.,	Augusta, Ga.
PRICE, GEORGE E.,	Charleston, W. Va.
PRICE, JOHN G.,	Seattle, Wash.
PRICHARD, FRANK P.,	Philadelphia, Pa.
PRIME, RALPH E.,	Yonkers, N. Y.
PRINDLE, EDWIN J.,	Washington, D. C.
PROCTOR, THOMAS W.,	Boston, Mass.
PROUT, F. N.,	Lincoln, Neb.
PRUDEN, WILLIAM D.,	Edenton, N. C.
PRUSSING, EUGENE E.,	Chicago, Ill.
PUJO, ARSENE P.,	Lake Charles, La.
PURNELL, CLAYTON,	Frostburg, Md.
PUTNAM, HARRINGTON,	New York, N. Y.
PUTNAM, WILLIAM L.,	Boston, Mass.
QUACKENBUSH, JAMES L.,	New York, N. Y.
QUAIL, FRANK A.,	Cleveland, Ohio.
QUARLES, CHARLES,	Milwaukee, Wis.
QUARLES, JOSEPH V. (Washington, D. C.),	Milwaukee, Wis.
QUARTON, WILLIAM B.,	Algona, Iowa.
RADFORD, GEORGE W.,	Detroit, Mich.
RAIN, FRANK L.,	Fairbury, Neb.
RALLS, JOSEPH G.,	Atoka, I. T.
RALSTON, JACKSON H.,	Washington, D. C.
RALSTON, ROBERT,	Philadelphia, Pa.
RANDALL, HENRY E.,	St. Paul, Minn.
RANDOLPH, CARMAN F. (New York, N. Y.),	Morristown, N. J.
RANNEY, FLETCHER,	Boston, Mass.
RANNEY, HENRY C.,	Cleveland, Ohio
RAWLE, FRANCIS,	Philadelphia, Pa.
RAWLE, FRANCIS WILLIAM,	Philadelphia, Pa.
RAY, CHARLES T.,	Louisville, Ky.
RAYMOND, JAMES H.,	Chicago, Ill.
RAYNOLDS, EDWARD V.,	New Haven, Conn.
READ, JAMES F.,	Fort Smith, Ark.
REARDON, JOHN J.,	Williamsport, Pa.
RECTOR, EDWARD,	Chicago, Ill.

REDDING, JOSEPH D., ... New York, N. Y.
REDDING, WILLIAM A., ... New York, N. Y.
REDFIELD, HENRY S., ... New York, N. Y.
REECE, PATTERSON A., ... Cincinnati, Ohio.
REED, FRANK F., ... Chicago, Ill.
REED, H. T., ... Cresco, Iowa.
REED, WILLIAM M., ... Paducah, Ky.
REESE, MANOAH B., ... Lincoln, Neb.
REEVES, ALFRED G., ... New York, N. Y.
REGENNITTER, ERWIN L., ... Idaho Springs, Col.
REINHARD, GEORGE L., ... Bloomington, Ind.
REYBURN, VALLE, ... St. Louis, Mo.
REYNOLDS, MATTHEW G., ... St. Louis, Mo.
REYNOLDS, THOMAS H., ... Kansas City, Mo.
RICE, WILLIAM E., ... Warren, Pa.
RICH, BURDETTE A., ... Rochester, N. Y.
RICH, WILLIAM G., ... Woonsocket, R. I.
RICHARDS, HARRY S., ... Madison, Wis.
RICHARDSON, GEORGE F., ... Lowell, Mass.
RICHARDSON, W. K., ... Boston, Mass.
RICHBERG, JOHN C., ... Chicago, Ill.
RICHMOND, BENJAMIN A., ... Cumberland, Md.
RIDDELL, HARVEY, ... Denver, Col.
RIKER, ADRIAN, ... Newark, N. J.
RINAKER, JOHN I., ... Carlinville, Ill.
RINEHART, C. D., ... Jacksonville, Fla.
RITSHER, EDWARD C., ... Chicago, Ill.
ROBB, BAMFORD A., ... Seattle, Wash.
ROBBINS, C. A., ... Lincoln, Neb.
ROBBINS, EDWARD D., ... Hartford, Conn.
ROBBINS, HENRY S., ... Chicago, Ill.
ROBERT, EDWARD S., ... St. Louis, Mo.
ROBERTS, GEORGE L., ... Boston, Mass.
ROBERTS, V. H., ... Columbia, Mo.
ROBERTS, W. J., ... Keokuk, Iowa.
ROBERTSON, C. D., ... Cincinnati, Ohio.
ROBERTSON, GEORGE, ... Mexico, Mo.
ROBERTSON, WILLIAM GORDON, ... Roanoke, Va.
ROBINSON, GIFFORD S., ... Sioux City, Iowa.
ROBINSON, RALPH, ... Baltimore, Md.
ROBINSON, THOMAS H., ... Bel Air, Md.
ROBSON, FRANK E., ... Detroit, Mich.
ROBY, FRANK S., ... Auburn, Ind.
RODENBECK, ADOLPH J., ... Rochester, N. Y.
ROGERS, EDWARD H., ... New Haven, Conn.

ROGERS, ELMER E., ... Chicago, Ill.
ROGERS, GEORGE MILLS, ... Chicago, Ill.
ROGERS, HAMILTON, ... Richmond, Va.
ROGERS, HENRY T., ... Denver, Col.
ROGERS, HENRY WADE, ... New Haven, Conn.
ROGERS, PLATT, ... Denver, Col.
ROGERS, ROBERT LYON, ... Baltimore, Md.
ROGERS, WALTER F., ... Washington, D. C.
ROGERS, WILLIAM P., ... Cincinnati, Ohio.
ROOT, ELIHU, ... New York, N. Y.
ROSE, A. J., ... Greenville, Miss.
ROSE, GEORGE B., ... Little Rock, Ark.
ROSE, JAMES E., ... Auburn, Ind.
ROSE, JAMES H., ... Auburn, Ind.
ROSE, U. M., ... Little Rock, Ark.
ROSE, WALTER T. J., ... Los Angeles, Cal.
ROSENTHAL, LESSING, ... Chicago, Ill.
ROSSINGTON, WILLIAM H., ... Topeka, Kan.
ROULHAC, THOMAS R., ... Sheffield, Ala.
ROUSE, JOHN D., ... New Orleans, La.
ROUSE, SHELLEY D., ... Covington, Ky.
ROYALL, WILLIAM L., ... Richmond, Va.
ROWE, LEO STANTON, ... Philadelphia, Pa.
RUBENS, HARRY, ... Chicago, Ill.
RUDD, CHANNING, ... Washington, D. C.
RUDD, WILLIAM PLATT, ... Albany, N. Y.
RUGG, ARTHUR P., ... Worcester, Mass.
RUHL, CHRISTIAN H., ... Reading, Pa.
RUNNELLS, JOHN S., ... Chicago, Ill.
RUPE, JOHN L., ... Richmond, Ind.
RUSSELL, ALFRED, ... Detroit, Mich.
RUSSELL, EDWARD L., ... Mobile, Ala.
RUSSELL, HENRY, ... Detroit, Mich.
RUSSELL, ISAAC F., ... New York, N. Y.
RUSSELL, TALCOTT H., ... New Haven, Conn.
RUSSELL, WILLIAM HEPBURN, ... New York, N. Y.
RYON, WILLIAM W., ... Shamokin, Pa.
SALTZGABER, GAYLARD M., ... Van Wert, Ohio.
SAMS, CONWAY W., ... Baltimore, Md.
SAMUELS, SIDNEY L., ... Fort Worth, Tex.
SANBORN, WALTER H., ... St. Paul, Minn.
SANDERS, GEORGE A., ... Springfield, Ill.
SANDERS, JAMES U., ... Helena, Mont.
SANDERS, W. B., ... Cleveland, Ohio.
SANFORD, EDWARD T., ... Knoxville, Tenn.

SANER, ROBERT E. LEE, ... Dallas, Tex.
SAULSBURY, WILLARD, ... Wilmington, Del.
SAUNDERS, EUGENE D., ... New Orleans, La.
SAWYER, ALFRED P., ... Lowell, Mass.
SAWYER, HAZEN I., ... Keokuk, Iowa.
SAXE, JOHN W., ... Boston, Mass.
SAYLER, JOHN RYNER, ... Cincinnati, Ohio.
SAYLER, SAMUEL M., ... Huntington, Ind.
SCAIFE, LAURISTON L., ... Boston, Mass.
SCALLON, WILLIAM, ... Butte, Mont.
SCHALLER, ALBERT E. (St. Paul, Minn.), ... Hastings, Minn.
SCHMUCKER. SAMUEL D., ... Baltimore, Md.
SCHNABEL, CHARLES J., ... Portland, Ore.
SCHOFIELD. F. L., ... Hannibal, Mo.
SCHOFIELD, WILLIAM, ... Malden, Mass.
SCHOULER, JAMES, ... Boston, Mass.
SCOTT, CHARLES F., ... Washington, D. C.
SCOTT, FRANK H., ... Chicago, Ill.
SCOTT, HOWARD B., ... Danbury, Conn.
SCOTT, JAMES B , ... Champaign, Ill.
SCOTT, JAMES L., ... Saratoga Springs, N. Y.
SCOTT, JOEL R., ... Perry, O. T.
SCOTT, N. B., ... Lake Village, Ark.
SCOTT, R. CARTER, ... Richmond, Va.
SCOTT, WILLIAM, ... Pittsburgh, Pa.
SEABROOK, PAUL E., ... Pineora, Ga.
SEAMAN, WILLIAM H., ... Sheboygan, Wis.
SEARCY, WILLIAM W., ... Brenham, Tex.
SEARLES, CHARLES E., ... Putnam, Conn.
SEARS, RUSSELL A., ... Boston, Mass.
SEATON, EMMETT, ... Richmond, Va.
SEBREE, FRANK P., ... Kansas City, Mo.
SEDGWICK, S. H., ... York, Neb.
SEEVERS, GEORGE W., ... Oskaloosa, Iowa.
SEIBERT, WILLIAM N., ... New Bloomfield, Pa.
SELDEN, JOHN, ... Washington, D. C.
SELLERS, EMORY B., ... Monticello, Ind.
SENEY, HENRY W., ... Toledo, Ohio.
SEXTON, PLINY T., ... Palmyra, N. Y.
SEYMOUR, HENRY A., ... Washington, D. C.
SEYMOUR, HENRY H., ... Buffalo, N. Y.
SHACK, FERDINAND, ... New York, N. Y.
SHAFROTH, JOHN F., ... Denver, Col.
SHAPLEY, RUFUS E., ... Philadelphia, Pa.
SHARP, GEORGE M., ... Baltimore, Md.

SHARP, J. F., ... Purcell, I. T.
SHEAR, B. D., ... Oklahoma City, O. T.
SHEARER, JAMES D., ... Minneapolis, Minn.
SHEEAN, JAMES B., ... St. Paul, Minn.
SHEPARD, CHARLES E., ... Seattle, Wash.
SHEPARD, HARVEY N., ... Boston, Mass.
SHEPARD, SETH, ... Washington, D. C.
SHERIFF, ANDREW R., ... Chicago, Ill.
SHERLEY, SWAGAR, ... Louisville, Ky.
SHERMAN, E. B., ... Chicago, Ill.
SHERWIN, JOHN C., ... Mason City, Iowa.
SHERWOOD, THOMAS A., ... Springfield, Mo.
SHIELDS, J. M., ... Pittsburgh, Pa.
SHIPMAN, GEORGE M., ... Belvidere, N. J.
SHIRAS, GEORGE, JR., ... Washington, D. C.
SHIRAS, OLIVER P., ... Dubuque, Iowa.
SIEBECKER, ROBERT G., ... Madison, Wis.
SIMMS, DAN W., ... Lafayette, Ind.
SIMPSON, ALEXANDER, JR., ... Philadelphia, Pa.
SIMPSON, S. J., ... Spartanburg, S. C.
SIPE, GEORGE E., ... Harrisonburg, Va.
SKELTON, WILLIAM B., ... Lewiston, Me.
SKINKER, THOMAS KEATH, ... St. Louis, Mo.
SLOAN, D. LINDLEY, ... Cumberland, Md.
SLOCUM, EDWARD T., ... Pittsfield, Mass.
SLOCUM, WINFIELD S., ... Boston, Mass.
SLOMAN, ADOLPH, ... Detroit, Mich.
SLONECKER, J. G., ... Topeka, Kan.
SMEAD, A. D. B., ... Carlisle, Pa.
SMITH, ALFRED PERCIVAL, ... Philadelphia, Pa.
SMITH, ALONZO GREENE, ... Indianapolis, Ind.
SMITH, BURTON, ... Atlanta, Ga.
SMITH, CHARLES B., ... Topeka, Kan.
SMITH, CHARLES W., ... Indianapolis, Ind.
SMITH, EDWARD GRANDISON, ... Clarksburg, W. Va.
SMITH, EDWIN BURRITT, ... Chicago, Ill.
SMITH, EDWIN HARVIE, ... Denver, Col.
SMITH, FRANK BULKELEY, ... Worcester, Mass.
SMITH, HARVEY F., ... Clarksburg, W. Va.
SMITH, HENRY HYDE, ... Boston, Mass.
SMITH, HOWARD B., ... Omaha, Neb.
SMITH, HOWARD L., ... Madison, Wis.
SMITH, JEREMIAH, ... Cambridge, Mass.
SMITH, JEREMIAH, JR., ... Boston, Mass.
SMITH, J. H. CHARLES, ... Cincinnati, Ohio.

SMITH, JOHN R., ... Denver, Col.
SMITH, LUTHER ELY, ... St. Louis, Mo.
SMITH, LUTHER R., ... Washington, D. C.
SMITH, NELSON, ... New York, N. Y.
SMITH, ROBERT H., ... Baltimore, Md.
SMITH, RUFUS B., ... Cincinnati, Ohio.
SMITH, SAM. FERRY, ... San Diego, Cal.
SMITH, THOMAS KILBY, ... Philadelphia, Pa.
SMITH, WALTER GEORGE, ... Philadelphia, Pa.
SMITH, WILLIAM B., ... Little Rock, Ark.
SMITH, WILLIAM O., ... Honolulu, H. T.
SMITH, WILLIS B., ... Richmond, Va.
SMITHERS, WILLIAM W., ... Philadelphia, Pa.
SMYTHE, AUGUSTINE T., ... Charleston, S. C.
SNARE, JACOB, ... Philadelphia, Pa.
SNOW, ALPHEUS H., ... Washington, D. C.
SNOW, DAVID W., ... Portland, Me.
SNYDER, CHARLES M., ... Fowler, Ind.
SOMERVILLE, THOMAS H., ... Oxford, Miss.
SPALDING, BURLEIGH FOLSOM, ... Fargo, N. D.
SPEAR, ELLIS, ... Washington, D. C.
SPEIR, GILBERT M., ... New York, N. Y.
SPENCER, CHARLES C., ... Monticello, Ind.
SPENCER, R. P., ... St. Louis, Mo.
SPENCER, SELDEN P., ... St. Louis, Mo.
SPOONER, JOHN C., ... Madison, Wis.
SPOONTS, M. A., ... Fort Worth, Tex.
SPRING, ARTHUR L., ... Boston, Mass.
SQUIRES, A. L., ... New York, N. Y.
SQUIRE, ANDREW, ... Cleveland, Ohio.
STAAKE, WILLIAM H., ... Philadelphia, Pa.
STAFFORD, W. H., ... Chippewa Falls, Wis.
STANTON, LEWIS E., ... Hartford, Conn.
STARK, JOSHUA, ... Milwaukee, Wis.
STARR, MERRITT, ... Chicago, Ill.
STAYTON, JOSEPH M., ... Newport, Ark.
STEARNS, CHARLES F., ... Providence, R. I.
STEELE, HENRY J., ... Easton, Pa.
STEELE, ROBERT W., ... Denver, Col.
STERN, JO. LANE, ... Richmond, Va.
STERRETT, JAMES R., ... Pittsburgh, Pa.
STETSON, FRANCIS LYNDE, ... New York, N. Y.
STEUART, ARTHUR, ... Baltimore, Md.
STEVENS, FREDERICK W., ... Detroit, Mich.
STEVENSON, ARCHIE M., ... Denver, Col.

STEVENSON, ELMER E.,	Indianapolis, Ind.
STEVICK, GUY LE ROY,	Denver, Col.
STEWART, GILBERT H.,	Columbus, Ohio.
STEWART, RUSSELL C.,	Easton, Pa.
STEWART, W. F. BAY,	York, Pa.
STILLMAN, ALPHONSO D.,	Pendleton, Ore.
STILLMAN, HERMAN W.,	Chicago, Ill.
STILLMAN, THOMAS E.,	New York, N. Y.
STILLMAN, WALTER S. (Omaha, Neb.),	Council Bluffs, Iowa.
STILLWELL, JAMES C.,	Philadelphia, Pa.
STIMSON, EDWARD C.,	Denver, Col.
STIMSON, FREDERIC J.,	Boston, Mass.
STINESS, JOHN H.,	Providence, R. I.
STOCKBRIDGE, HENRY,	Baltimore, Md.
STODDARD, WILLIAM B.,	New Haven, Conn.
STOEHR, OSCAR,	Cincinnati, Ohio.
STOEVER, WILLIAM C.,	Philadelphia, Pa.
STONE, FREDERIC M.,	Boston, Mass.
STONE, HENRY L.,	Louisville, Ky.
STONE, JOHN W.,	Marquette, Mich.
STOREY, MOORFIELD,	Boston, Mass.
STORROW, JAMES J.,	Boston, Mass.
STOUGHTON, A. B.,	Philadelphia, Pa.
STRAWBRIDGE, WILLIAM C.,	Philadelphia, Pa.
STREET, ROBERT G.,	Galveston, Tex.
STREETER, FRANK S.,	Concord, N. H.
STRICKLAND, JOHN J.,	Athens, Ga.
STRINGER, EDWARD C.,	St. Paul, Minn.
STRONG, ALAN H.,	New Brunswick, N. J.
STRONG, EDWARD W.,	Cincinnati, Ohio.
STROUT, SEWALL C.,	Portland, Me.
STUART, WILLIAM V.,	LaFayette, Ind.
STURTEVANT, CHARLES L.,	Washington, D. C.
SULZBERGER, MAYER,	Philadelphia, Pa.
SUMERWELL, E. K.,	New York, N. Y.
SUMNER, EDWARD A.,	New York, N. Y.
SUMRALL, W. LAWSON,	Harrodsburg, Ky.
SUTHERLIN, E. W.,	Shreveport, La.
SUTRO, THEODORE,	New York, N. Y.
SWAN, CHARLES H.,	Boston, Mass.
SWAN, ELBERT M.,	Rockport, Ind.
SWAN, WILLIAM W.,	Boston, Mass.
SWANEY, W. B.,	Chattanooga, Tenn.
SWARTS, SOLOMON L.,	St. Louis, Mo.
SWASEY, GEORGE R.,	Boston, Mass.

SWAYZE, FRANCIS J., ... Newark, N. J.
SWEARINGEN, J. M., ... Pittsburgh, Pa.
SWEETLAND, WILLIAM H., ... Providence, R. I.
SWETTING, ERNEST V., ... Algona, Iowa.
SWIFT, CHARLES M., ... Detroit, Mich.
SWISHER, A. E., ... Iowa City, Iowa.
SYMONDS, JOSEPH W., ... Portland, Me.
SYNNESTVEDT, PAUL, ... Pittsburgh, Pa.
TAFT, ELIHU B., ... Burlington, Vt.
TAFT, GEORGE S., ... Worcester, Mass.
TAFT, WILLIAM H. (Washington, D. C.), ... Cincinnati, Ohio.
TAGGART, EDWARD, ... Grand Rapids, Mich.
TAGGART, W. RUSH, ... New York, N. Y.
TATUM, LOUIS R., ... Denver, Col.
TAULANE, JOSEPH H., ... Philadelphia, Pa.
TAUSSIG, JAMES, ... St. Louis, Mo.
TAYLOR, HANNIS, ... Washington, D. C.
TAYLOR, JOSEPH T., ... Philadelphia, Pa.
TAYLOR, R. S., ... Fort Wayne, Ind.
TAYLOR, SENECA N., ... St. Louis, Mo.
TAYLOR, WILLIAM L., ... Indianapolis, Ind.
TEARS, DANIEL W., ... Denver, Col.
TELLER, WILLARD, ... Denver, Col.
TENNANT, W. B., ... Richmond, Va.
TENNEY, HORACE KENT, ... Chicago, Ill.
TERRELL, WILLIAM J., ... Burlington, N. J.
TERRY, J. W., ... Galveston, Tex.
TETIRICK, W. C., ... Blackwell, O. T.
THAYER, RUFUS C., ... Colorado Springs, Col.
THOM, ALFRED P., ... Washington, D. C.
THOMAN, LEROY D., ... Chicago, Ill.
THOMAS, CHARLES S., ... Denver, Col.
THOMAS, W. H., ... Leeds, N. D.
THOMAS, WILLIAM H., ... Montgomery, Ala.
THOMAS, WILLIAM S., ... Baltimore, Md.
THOMASON, E. B., ... Richmond, Va.
THOMPSON, A. M., ... Pittsburgh, Pa.
THOMPSON, R. H., ... Jackson, Miss.
THOMPSON, WILLIAM B., ... St. Louis, Mo.
THOMSON, CHARLES I., ... Denver, Col.
THORNTON, CHARLES S., ... Chicago, Ill.
THORNTON, J. R., ... Alexandria, La.
THORNTON, ROBERT A., ... Lexington, Ky.
THUM, WILLIAM WARWICK, ... Louisville, Ky.
THURSTON, JOHN M., ... Washington, D. C.

THURSTON, WILMARTH H., ... Providence, R. I.
TICHENOR, CHARLES O., ... Kansas City, Mo.
TIGHE, AMBROSE, ... St. Paul, Minn.
TILLINGHAST, FRANK W., ... Providence, R. I.
TILLINGHAST, JAMES, ... Providence, R. I.
TILLINGHAST, WILLIAM R., ... Providence, R. I.
TILLMAN, A. M., ... Nashville, Tenn.
TITUS, FRANK, ... Kansas City, Mo.
TITUS, H. L., ... San Diego, Cal.
TODD, M. HAMPTON, ... Philadelphia, Pa.
TOLLES, SHELDON H., ... Cleveland, Ohio.
TOMPKINS, HAMILTON B., ... New York, N. Y.
TOMLIN, JOHN G., ... Walton, Ky.
TONEY, STERLING B., ... Denver, Col.
TOOMER, W. M., ... Waycross, Ga.
TORRANCE, DAVID, ... Derby, Conn.
TOWLE, HENRY S., ... Chicago, Ill.
TOWNES, WILLIAM A., ... Richmond, Va.
TOWNSEND, CHARLES C., ... Philadelphia, Pa.
TOWNSEND, WILLIAM K., ... New Haven, Conn.
TRABUE, EDMUND F., ... Louisville, Ky.
TRASK, WALTER J., ... Los Angeles, Cal.
TREMAIN, HENRY E., ... New York, N. Y.
TRICKETT, WILLIAM, ... Carlisle, Pa.
TRIMBLE, J. McD., ... Kansas City, Mo.
TRIPP, BARTLETT, ... Yankton, S. D.
TRIPPET, OSCAR A., ... Los Angeles, Cal.
TROUP, JAMES O., ... Bowling Green, Ohio.
TROWBRIDGE, HENRY, ... Colorado Springs, Col.
TUCK, PHILEMON H., ... Baltimore, Md.
TUCKER, GEORGE F., ... Boston, Mass.
TUCKER, HENRY ST. GEORGE, ... Lexington, Va.
TURNER, FRANK G., ... Baltimore, Md.
TURNER, GEORGE, ... Spokane, Wash.
TURNER, JESSE, ... Van Buren, Ark.
TURNER, ROBERT WILSON, ... Mankato, Kan.
TURNER, SMITH D., ... Parkersburg, W. Va.
TURNER, W. J., ... Milwaukee, Wis.
TUTHILL, HARRY B., ... Michigan City, Ind.
TUTTLE, J. BIRNEY, ... New Haven, Conn.
TYLER, CHARLES H., ... Boston, Mass.
ULLMAN, FREDERIC, ... Chicago, Ill.
UMBEL, ROBERT E., ... Uniontown, Pa.
VAILE, JOEL F., ... Denver, Col.
VANAMEE, WILLIAM, ... Newburgh, N. Y.

VANCE, WILLIAM R., ... Washington, D. C.
VAN CISE, EDWIN, ... Denver, Col.
VANDEMAN, JOHN N., ... Dayton, Ohio.
VANDERVORT, JAMES W., ... Parkersburg, W. Va.
VAN DEVANTER, WILLIS, ... Cheyenne, Wyo.
VAN DEVENTER, HORACE, ... Knoxville, Tenn.
VAN DUSEN, JAMES H., ... Omaha, Neb.
VAN DYKE, GEORGE D., ... Milwaukee, Wis.
VAN DYKE, HENRY S., ... Los Angeles, Cal.
VAN DYKE, WILLIAM D., ... Milwaukee, Wis.
VAN ORSDEL, JOSIAH A., ... Cheyenne, Wyo.
VAN SLYCK, GEORGE F., ... New York, N. Y.
VAN SLYCK, GEORGE W., ... New York, N. Y.
VAN VECHTEN, A. V. W., ... New York, N. Y.
VAN WINKLE, W. W., ... Parkersburg, W. Va.
VARIAN, CHARLES S., ... Salt Lake City, Utah.
VATES, WILLIAM B., ... Pueblo, Col.
VENABLE, RICHARD M., ... Baltimore, Md.
VERTREES, JOHN J., ... Nashville, Tenn.
VESEY, ALLEN J., ... Fort Wayne, Ind.
VESEY, WILLIAM J., ... Fort Wayne, Ind.
VIEU, HENRY A., ... New York, N. Y.
VILAS, EDWARD P., ... Milwaukee, Wis.
VILLARD, HAROLD G., ... New York, N. Y.
VON MOSCHZISKER, ROBERT, ... Philadelphia, Pa.
VOORHEES, JOHN H., ... Sioux Falls, S. D.
VORYS, ARTHUR I., ... Lancaster, Ohio.
VROMAN, CHARLES E., ... Chicago, Ill.
VROOM, GARRET D. W., ... Trenton, N. J.
WADE, M. J., ... Iowa City, Iowa.
WADHAMS, FREDERICK E., ... Albany, N. Y.
WAGGENER, BALIE P., ... Atchison, Kan.
WAGGENER, WILLIAM P., ... Atchison, Kan.
WAKEFIELD, WILLIAM J. C., ... Spokane, Wash.
WAKELEY, ELEAZER, ... Omaha, Neb.
WALDO, GEORGE E., ... New York, N. Y.
WALKER, ALBERT H., ... New York, N. Y.
WALKER, PLATT D., ... Raleigh, N. C.
WALKER, ROBERT F., ... St. Louis, Mo.
WALL, GEORGE W., ... Chicago, Ill.
WALL, THOMAS B., ... Wichita, Kan.
WALLING, STUART D., ... Denver, Col.
WALSH, ARTHUR R., ... New York, N. Y.
WALSH, R. JAY, ... Greenwich, Conn.
WALSH, WILLIAM E., ... Cumberland, Md.

WALTER, M. R., ... Baltimore, Md.
WALTHALL, A. M., ... El Paso, Tex.
WALTON, CLIFFORD S., ... Washington, D. C.
WALTON, HENRY F., ... Philadelphia, Pa.
WAMBAUGH, EUGENE, ... Cambridge, Mass.
WANTY, GEORGE P., ... Grand Rapids, Mich.
WARD, HAMILTON, ... Buffalo, N. Y.
WARD, HENRY GALBRAITH, ... New York, N. Y.
WARD, HERBERT H., ... Wilmington, Del.
WARD, HUGH C., ... Kansas City, Mo.
WARD, THOMAS, JR., ... Denver, Col.
WARFIELD, EDWIN, ... Baltimore, Md.
WARNER, CHARLES E., ... Fort Smith, Ark.
WARNER, DONALD T., ... Salisbury, Conn.
WARNER, GEORGE COFFING, ... New York, N. Y.
WARNER, HENRY E., ... Boston, Mass.
WARNER, JOHN DEWITT, ... New York, N. Y.
WARNER, JOSEPH B., ... Boston, Mass.
WARNER, STANLEY CLARK, ... Denver, Col.
WARREN, SAMUEL D., ... Boston, Mass.
WARRINGTON, JOHN W., ... Cincinnati, Ohio.
WARVELLE, GEORGE W., ... Chicago, Ill.
WASHBURN, JED L., ... Duluth, Minn.
WASHBURN, WILLIAM D., ... Chicago, Ill.
WATERMAN, CHARLES W., ... Denver, Col.
WATERS, ASA W., ... Philadelphia, Pa.
WATERS, J. S. T., ... Baltimore, Md.
WATROUS, GEORGE T., ... New Haven, Conn.
WATSON, D. T., ... Pittsburgh, Pa.
WATTERSON, A. V. D., ... Pittsburgh, Pa.
WATTS, LEGH R., ... Portsmouth, Va.
WATTS, WILLIAM W., ... Louisville, Ky.
WAY, WILLIAM A., ... Pittsburgh, Pa.
WEADOCK, THOMAS A. E., ... Detroit, Mich.
WEAKLEY, SAMUEL D., ... Birmingham, Ala.
WEAVER, CLEMENT E., ... Adrian, Mich.
WEAVER, JOHN, ... Philadelphia, Pa.
WEBB, JAMES H., ... New Haven, Conn.
WEBBER, MARSHALL B., ... Winona, Minn.
WEBSTER, JOHN L., ... Omaha, Neb.
WEEKS, WILLIAM R., ... New York, N. Y.
WEIL, A. LEO, ... Pittsburgh, Pa.
WELLMAN, ARTHUR H., ... Boston, Mass.
WELLS, FRANK, ... Oklahoma City, O. T.
WELLS, ROLLIN J., ... Sioux Falls, S. D.

West, Joel W., ... Omaha, Neb.
West, Preston C., ... Muskogee, I. T.
West, Roy O., ... Chicago, Ill.
Weston-Smith, R. D., ... Boston, Mass.
Wetmore, Edmund, ... New York, N. Y.
Wheeler, Arthur Dana, ... Chicago, Ill.
Wheeler, Everett P., ... New York, N. Y.
Wheeler, Seth S., ... Lima, Ohio.
Whelan, Ralph, ... Minneapolis, Minn.
Wheless, Joseph, ... St. Louis, Mo.
Whipple, Sherman L., ... Boston, Mass.
White, Benjamin T., ... Omaha, Neb.
White, Henry C., ... New Haven, Conn.
White, Luther, ... Chicopee, Mass.
White, Peter, ... Marquette, Mich.
White, Robert, ... Wheeling, W. Va.
White, S. Harrison, ... Pueblo, Col.
Whiteley, Richard H., ... Boulder, Col.
Whitelock, George, ... Baltimore, Md.
Whiteside, Houston, ... Hutchinson, Kan.
Whitlock, Henry C., ... Philadelphia, Pa.
Whitmore, Chester W., ... Ottumwa, Iowa.
Whitney, Edward B., ... New York, N. Y.
Whittaker, Egbert, ... Saugerties, N. Y.
Whittemore, James, ... Detroit, Mich.
Wickham, Henry T., ... Richmond, Va.
Wigman, J. H. M., ... Green Bay, Wis.
Wigmore, John H., ... Chicago, Ill.
Wilcox, Ansley, ... Buffalo, N. Y.
Wilcox, P. A., ... Florence, S. C.
Wilcox, William A., ... Scranton, Pa.
Wilfley, Lebbeus R., ... St. Louis, Mo.
Wilgus, Horace L., ... Ann Arbor, Mich.
Willard, Edward N., ... Scranton, Pa.
Willard, George, ... Chicago, Ill.
Willard, Joseph E., ... Fairfax, Va.
Willard, Norman P., ... Chicago, Ill.
Willcox, David, ... New York, N. Y.
Willcox, W. F., ... Chester, Conn.
Willett, Joseph J., ... Anniston, Ala.
Williams, Charles M., ... Hutchinson, Kan.
Williams, Charles U., ... Richmond, Va.
Williams, David W., ... Boston, Mass.
Williams, E. P., ... Galesburg, Ill.
Williams, E. Randolph, ... Richmond, Va.

WILLIAMS, FERDINAND, ... Cumberland, Md.
WILLIAMS, HENRY W., ... Baltimore, Md.
WILLIAMS, HORACE B., ... Dallas, Tex.
WILLIAMS, IRA JEWELL, ... Philadelphia, Pa.
WILLIAMS, JAMES C., ... Kansas City, Mo.
WILLIAMS, JOHN G , ... Indianapolis, Ind.
WILLIAMS, P. L., ... Salt Lake City, Utah.
WILLIAMS, R. W., ... Tallahassee, Fla.
WILLIAMS, ROBERT L., ... Durant, I. T.
WILLIAMS, STEVENSON A., ... Bel Air, Md.
WILLIAMS, TYRRELL, ... St. Louis, Mo.
WILLIAMS, W. MOSBY, ... Washington, D. C.
WILLIAMS, WM. H., ... Derby, Conn.
WILLIAMSON, W. PRESTON, ... Washington, D. C.
WILLISTON, SAMUEL, ... Belmont, Mass.
WILMER L. ALLISON, ... La Plata, Md.
WILSON, CHARLES A., ... Providence, R. I.
WILSON, CHARLES M., ... Grand Rapids, Mich.
WILSON, CLARENCE R., ... Washington, D. C.
WILSON, F. A., ... Bangor, Me.
WILSON, HENRY H., ... Lincoln, Neb.
WILSON, JOHN R., ... Indianapolis, Ind.
WILSON, NATHANIEL, ... Washington, D. C.
WILSON, PERCY R., ... Los Angeles, Cal.
WILSON, WOODROW, ... Princeton, N. J.
WIMBISH, W. A., ... Atlanta, Ga.
WINDLE, WILLIAM S., ... West Chester, Pa.
WING, HENRY T., ... New York, N. Y.
WINKLER, FREDERICK C., ... Milwaukee, Wis.
WINSLOW, WILLIAM BEVERLY, ... New York, N. Y.
WINTERNITZ, BENJAMIN A., ... New Castle, Pa.
WISE, JESSE H., ... Pittsburgh, Pa.
WISLIZENUS, FRED., ... St. Louis, Mo.
WISWELL, ANDREW P., ... Ellsworth, Me.
WITHINGTON, DAVID L., ... Honolulu, H. T.
WITHROW, JAMES E., ... St. Louis, Mo.
WOLF, GUSTAVE A., ... Grand Rapids, Mich.
WOLFE, WILLIAM HENRY, JR., ... Parkersburg, W. Va.
WOLLMAN, HENRY, ... New York, N. Y.
WOLVERTON, SIMON P., ... Sunbury, Pa.
WOMACK, T. J., ... Alva, O. T.
WOOD, HORATIO D., ... St. Louis, Mo.
WOOD, SOLOMON A., ... Fort Wayne, Ind.
WOODARD, CHARLES F., ... Bangor, Me.
WOODMAN, EDWARD, ... Portland, Me.

WOODRUFF, CLINTON ROGERS, ... Philadelphia, Pa.
WOODRUFF, EDWIN H., ... Ithaca, N. Y.
WOODRUFF, GEORGE M., ... Litchfield, Conn.
WOODRUFF, ROBERT S., ... Trenton, N. J.
WOODS, FRANK H., ... Lincoln, Neb.
WOODS, JOHN CARTER BROWN, ... Providence, R. I.
WOODS, WILLIAM W., ... Wallace, Ida.
WOODWARD, FREDERIC C., ... Chicago, Ill.
WOOLLEY, JAMES H., ... Grand Island, Neb.
WOOLSEY, THEO. S., ... New Haven, Conn.
WOOLWORTH, JAMES M., ... Omaha, Neb.
WORK, JAMES C., ... Uniontown, Pa.
WORKS, JOHN D., ... Los Angeles, Cal.
WORTHINGTON, WILLIAM, ... Cincinnati, Ohio.
WRIGHT, CARROLL, ... Des Moines, Iowa.
WRIGHT, WILLIAM A., ... New Haven, Conn.
WRIGHTSMAN, CHARLES J., ... Pawnee, O. T.
WURTS, JOHN, ... New Haven, Conn.
WYMAN, HENRY A., ... Boston, Mass.
WYSOR, JOSEPH C., ... Pulaski, Va.
YANCEY, DAVID WALKER, ... Manila, P. I.
YARRELL, LEONIDAS D., ... Emporia, Va.
YEAMAN, CALDWELL, ... Denver, Col.
YOUMANS, FRANK A., ... Fort Smith, Ark.
YOUNG, DAVID K., ... Clinton, Tenn.
YOUNG, GEORGE B., ... St. Paul, Minn.
YOUNG, GEORGE R., ... Dayton, Ohio.
YOUNG, HENRY E., ... Charleston, S. C.
YOUNG, JOHN S., ... Bel Air, Md.
YOUNKER, B. A., ... Des Moines, Iowa.
ZEISLER, SIGMUND, ... Chicago, Ill.

STATE LIST OF MEMBERS
1905-1906.

ALABAMA.

Ball, Fred. S., ... Montgomery.
Bromberg, Frederick G., ... Mobile.
Cooper, Lawrence, ... Huntsville.
DeGraffenried, Edward, ... Greensboro.
Dent, S. H., Jr., ... Montgomery.
Harrison, George P., ... Opelika.
Hundley, Oscar R., ... Huntsville.
Jones, George W., ... Montgomery.
London, Alexander T., ... Birmingham.
McClellan, Thomas N., ... Montgomery.
Nathan, Joseph H., ... Sheffield.
Roulhac, Thomas R., ... Sheffield.
Russell, Edward L., ... Mobile.
Thomas, W. H., ... Montgomery.
Weakley, Samuel D., ... Birmingham.
Willett, Joseph J., ... Anniston.

ALASKA TERRITORY.

Hills, W. J., ... Juneau.
Jennings, Robert W., ... Juneau.

ARIZONA TERRITORY.

Ellinwood, Everett E., ... Prescott.
Herndon, John C., ... Prescott.
Kent, Edward, ... Phœnix.
Morrison, Robert E., ... Prescott.

ARKANSAS.

Adamson, W. C., ... Little Rock.
Arnold, William H., ... Texarkana.
Botton, E. A., ... Lake Village.
Brizzolara, James, ... Fort Smith.
Cantrell, Deaderick H., ... Little Rock.
Cockrill, Ashley, ... Little Rock.
Cohn, Morris M., ... Little Rock.
Dooley, P. C., ... Little Rock.
DuVal, Ben. T., ... Fort Smith.

ARKANSAS.—Continued.

FITZHUGH, HENRY L., ... Fort Smith.
FLETCHER, JOHN, ... Little Rock.
HICKS, JOHN T., ... Little Rock.
HILL, JOSEPH M., ... Little Rock.
HORNER, JOHN J., ... Helena.
HUGHES, ALLEN, ... Jonesboro.
JONES, GUSTAVE, ... Newport.
KIRTEN, WILLIAM, ... Lake Village.
MARTIN, THOMAS B., ... Little Rock.
MARTIN, WOLSEY R., ... Fort Smith.
MECHEM, HOMER C., ... Fort Smith.
MILES, OSCAR L., ... Fort Smith.
MOORE, JOHN M., ... Little Rock.
MCDONOUGH, JAMES B., ... Fort Smith.
PEIRCE, EDWARD B., ... Little Rock.
READ, JAMES F., ... Fort Smith.
ROSE, GEORGE B., ... Little Rock.
ROSE, U. M., ... Little Rock.
SCOTT, N. B., ... Lake Village.
SMITH, WILLIAM B., ... Little Rock.
STAYTON, JOSEPH M., ... Newport.
TURNER, JESSE, ... Van Buren.
WARNER, CHARLES E., ... Fort Smith.
YOUMANS, FRANK A., ... Fort Smith.

CALIFORNIA.

BAILEY, EDWARD C., ... Los Angeles.
BARRY, EDMUND D., ... Pasadena.
BRITT, E. W., ... Los Angeles.
CHICKERING, W. H., ... San Francisco.
CORBET, BURKE, ... San Francisco.
FITZGERALD, JOHN C., ... Pasadena.
FULLER, GEORGE, ... Los Angeles.
GIBSON, JAMES A., ... Los Angeles.
GRAFF, M. L., ... Los Angeles.
HAWKINS, JOHN J (Prescott, Ariz.), ... Los Angeles.
HELM, LYNN, ... Los Angeles.
HUNSAKER, WILLIAM J., ... Los Angeles.
LAWLER, OSCAR, ... Los Angeles.
MONROE, CHARLES, ... Los Angeles.
MCDONALD, J. WADE, ... San Diego.
OLNEY, WARREN, ... San Francisco.
OTIS, GEORGE E., ... San Bernardino.
ROSE, WALTER T. J., ... Los Angeles.

CALIFORNIA.—Continued.

SMITH, SAM. FERRY,	San Diego.
TITUS, H. L.,	San Diego.
TRASK, WALTER J.,	Los Angeles.
TRIPPET, OSCAR A.,	Los Angeles.
VAN DYKE, HENRY S.,	Los Angeles.
WILSON, PERCY R.,	Los Angeles.
WORKS, JOHN D.,	Los Angeles.

COLORADO.

ALLEN, GEORGE W.,	Denver.
BABB, HENRY B.,	Denver.
BABBITT, KURNEL R.,	ColoradoSprings.
BARTELS, GUSTAVE C.,	Denver.
BENNETT, EDMON G.,	Denver.
BISSELL, JULIUS B.,	Denver.
BLAIR, JESSE H.,	Denver.
BLOOD, JAMES H.,	Denver.
BONYNGE, ROBERT W.,	Denver.
BOUCK, FRANCIS E.,	Leadville.
BROOKS, FRANKLIN E.,	ColoradoSprings.
BRYANT, WILLIAM H.,	Denver.
BUTLER, HUGH,	Denver.
CAMPBELL, CHARLES M.,	Denver.
CAMPBELL, NORMAN M.,	ColoradoSprings.
CARPENTER, SAMUEL L.,	Denver.
CAVENDER, CHARLES,	Leadville.
CHITTENDEN, GRANVILLE I.,	Denver.
COSTIGAN, EDWARD P.,	Denver.
CURTIS, LEONARD E.,	ColoradoSprings.
CUTHBERT, LUCIUS M.,	Denver.
DAVIS, HARRY C.,	Denver.
DAVIS, WALTER W.,	Leadville.
DAWSON, CLYDE C.,	Canon City.
DINES, ORVILLE L.,	Denver.
DINES, TYSON S.,	Denver.
DIXON, JOHN R.,	Denver.
DUNKLEE, GEORGE F.,	Denver.
EWING, JOHN A.,	Leadville.
FLEMING, JOHN D.,	Boulder.
FOWLER, JO. A.,	Denver.
GABBERT, WILLIAM H.,	Denver.
GABRIEL, JOHN H.,	Denver.
GAST, CHARLES E.,	Pueblo.

COLORADO.—Continued.

GILES, BRANCH H.,	Denver.
GODDARD, LUTHER M.,	Denver.
GORDON, JOHN A.,	Denver.
GOVE, FRANK E.,	Denver.
GREGG, FRANK E.,	Denver.
GRIER, ALBERT E.,	Denver.
GROZIER, JOSHUA,	Denver.
GUNNELL, A. T.,	ColoradoSprings.
GUNTER, JULIUS C.,	Denver.
HAGGOTT, W. A.,	Idaho Springs.
HALL, HENRY C.,	ColoradoSprings.
HALLETT, MOSES,	Denver.
HARDCASTLE, THOMAS H.,	Denver.
HARRISON, WILLIAM B.,	Denver.
HAYNES, H. N.,	Greeley.
HAYT, CHARLES D.,	Denver.
HERRINGTON, CASS E.,	Denver.
HERSEY, HENRY J.,	Denver.
HODGES, GEORGE L.,	Denver.
HOOD, THOMAS H.,	Denver.
HOYT, LUCIUS W.,	Denver.
HUGHES, CHARLES J., JR.,	Denver.
KILLIAN, JAMES R.,	Denver.
LINDSLEY, HENRY A.,	Denver.
LUNT, HORACE G.,	ColoradoSprings.
MANLY, GEORGE C.,	Denver.
MAY, HENRY F.,	Denver.
MILLS, J. WARNER,	Denver.
MCALLISTER, HENRY, JR.,	ColoradoSprings.
MCCREERY, JAMES W.,	Greeley.
MCKNIGHT, RICHARD,	Denver.
OAKES, EDWARD L.,	Telluride.
O'DONNELL, THOMAS J.,	Denver.
PARSONS, CHARLES C.,	Denver.
REGENNITTER, ERWIN L.,	Idaho Springs.
RIDDELL, HARVEY,	Denver.
ROGERS, HENRY T.,	Denver.
ROGERS, PLATT,	Denver.
SHAFROTH, JOHN F.,	Denver.
SMITH, EDWIN HARVIE,	Denver.
SMITH, JOHN R.,	Denver.
STEELE, ROBERT W.,	Denver.
STEVENSON, ARCHIE M.,	Denver.
STEVICK, GUY LEROY,	Denver.

COLORADO.—Continued.

STIMSON, EDWARD C., ... Denver.
TATUM, LOUIS R., ... Denver.
TEARS, DANIEL W., ... Denver.
TELLER, WILLARD, ... Denver.
THAYER, RUFUS C., ... ColoradoSprings.
THOMAS, CHARLES S., ... Denver.
THOMSON, CHARLES I., ... Denver.
TONEY, STERLING B., ... Denver.
TROWBRIDGE, HENRY, ... ColoradoSprings.
VAILE, JOEL F., ... Denver.
VANCISE, EDWIN, ... Denver.
VATES, WILLIAM B., ... Pueblo.
WALLING, STUART D., ... Denver.
WARD, THOMAS, JR., ... Denver.
WARNER, STANLEY CLARK, ... Denver.
WATERMAN, CHARLES W., ... Denver.
WHITE, S. HARRISON, ... Pueblo.
WHITELEY, RICHARD H., ... Boulder.
YEAMAN, CALDWELL, ... Denver.

CONNECTICUT.

ARVINE, E. P., ... New Haven.
BALDWIN, SIMEON E., ... New Haven.
BEARDSLEY, MORRIS B., ... Bridgeport.
BEERS, GEORGE E., ... New Haven.
BRISCOE, CHARLES H., ... Hartford.
CLARK, JAMES GARDNER, ... New Haven.
CONANT, GEORGE A., ... Hartford.
CULVER, M. EUGENE, ... Middletown.
CURTIS, JULIUS B., ... Stamford.
GAGER, EDWIN B., ... Derby.
HARRIMAN, EDWARD AVERY, ... New Haven.
HARRISON, LYNDE, ... New Haven.
HYDE, WILLIAM W., ... Hartford.
IVES, J. MOSS, ... Danbury.
KNAPP, HOWARD H., ... Bridgeport.
MALTBIE, THEODORE M., ... Hartford.
MITCHELL, CHARLES E., ... New Britain.
NEWTON, HENRY G., ... New Haven.
PECK, EPAPHRODITUS, ... Bristol.
PHELPS, CHARLES, ... Rockville.
RAYNOLDS, EDWARD V., ... New Haven.
ROBBINS, EDWARD D., ... Hartford.

CONNECTICUT.—Continued.

Rogers, Edward H., ... New Haven.
Rogers, Henry Wade, ... New Haven.
Russell, Talcott H., ... New Haven.
Scott, Howard B., ... Danbury.
Searles, Charles E., ... Putnam.
Stanton, Lewis E., ... Hartford.
Stoddard, William B., ... New Haven.
Torrance, David, ... Derby.
Townsend, William K., ... New Haven.
Tuttle, J. Birney, ... New Haven.
Walsh, R. Jay, ... Greenwich.
Warner, Donald T., ... Salisbury.
Watrous, George T., ... New Haven.
Webb, James H., ... New Haven.
White, Henry C., ... New Haven.
Willcox, W. F., ... Chester.
Williams, William H., ... Derby.
Woodruff, George M., ... Litchfield.
Woolsey, Theo. S., ... New Haven.
Wright, William A., ... New Haven.
Wurts, John, ... New Haven.

DELAWARE.

Bradford, Edward G., ... Wilmington.
Garland, Spottswood, ... Wilmington.
Gray, George, ... Wilmington.
Higgins, Anthony, ... Wilmington.
Hilles, William S., ... Wilmington.
Lore, Charles B., ... Wilmington.
Nicholson, John R., ... Dover.
Nields, Benjamin, ... Wilmington.
Nields, John P., ... Wilmington.
Saulsbury, Willard, ... Wilmington.
Ward, Herbert H., ... Wilmington.

DISTRICT OF COLUMBIA.

Abert, William Stone, ... Washington.
Anderson, Thomas H., ... Washington.
Ashton, J. Hubley, ... Washington.
Atkins, Joseph L., ... Washington.
Berry, Walter V. R., ... Washington.
Bingham, Edward F., ... Washington.
Blair, John S., ... Washington.

DISTRICT OF COLUMBIA.—Continued.

Bond, Samuel R., ... Washington.
Brewer, David J., ... Washington.
Brown, Chapin, ... Washington.
Browne, Aldis B., ... Washington.
Browne, Arthur S., ... Washington.
Church, Joseph B., ... Washington.
Church, Melville, ... Washington.
Davis, Henry E., ... Washington.
Dodge, William W., ... Washington.
Dowell, Julian C., ... Washington.
Dunlop, G. Thomas, ... Washington.
Edmonston, William E., ... Washington.
Edson, Joseph R., ... Washington.
Fisher, Robert J., ... Washington.
Fisher, Samuel T., ... Washington.
Flannery, John Spalding, ... Washington.
Foster, Charles E., ... Washington.
Frazier, Robert T., ... Washington.
Garfield, James R., ... Washington.
Greeley, Arthur P., ... Washington.
Hagner, Alexander B., ... Washington.
Hamilton, George Earnest, ... Washington.
Hayden, James H., ... Washington.
Hine, Lemon G., ... Washington.
Howard, George H., ... Washington.
Kappler, Charles J., ... Washington.
Kennedy, Crammond, ... Washington.
King, George A., ... Washington.
Lancaster, Charles C., ... Washington.
Larner, John B., ... Washington.
Leckie, A. E. L., ... Washington.
MacVeagh, Wayne, ... Washington.
Maddox, Samuel, ... Washington.
Mauro, Philip, ... Washington.
Michener, L. T., ... Washington.
Minor, Benjamin S., ... Washington.
Mohun, Barry, ... Washington.
Morris, M. F., ... Washington.
Morse, A. Porter, ... Washington.
McCammon, Joseph K., ... Washington.
McGill, J. Nota, ... Washington.
McKenney, Frederic D., ... Washington.
Needham, Charles W., ... Washington.
Page, Thomas Nelson, ... Washington.

DISTRICT OF COLUMBIA.—Continued.

PAYNE, JAMES G., ... Washington.
PERRY, R. ROSS, JR., ... Washington.
PRINDLE, EDWIN J., ... Washington.
RALSTON, JACKSON H., ... Washington.
ROGERS, WALTER F., ... Washington.
RUDD, CHANNING, ... Washington.
SCOTT, CHARLES F., ... Washington.
SELDEN, JOHN, ... Washington.
SEYMOUR, HENRY A., ... Washington.
SHEPARD, SETH, ... Washington.
SHIRAS, GEORGE, JR., ... Washington.
SMITH, LUTHER R., ... Washington.
SNOW, ALPHEUS H., ... Washington.
SPEAR, ELLIS, ... Washington.
STURTEVANT, CHARLES L., ... Washington.
TAYLOR, HANNIS, ... Washington.
THOM, ALFRED P., ... Washington.
THURSTON, JOHN M., ... Washington.
VANCE, WILLIAM R., ... Washington.
WALTON, CLIFFORD S., ... Washington.
WILLIAMS, W. MOSBY, ... Washington.
WILLIAMSON, W. PRESTON, ... Washington.
WILSON, CLARENCE R., ... Washington.
WILSON, NATHANIEL, ... Washington.

FLORIDA.

AVERY, JOHN C., ... Pensacola.
AXTELL, EZRA P., ... Jacksonville.
BAKER, ROBERT A., ... Jacksonville.
BAKER, WILLIAM H., ... Jacksonville.
BEDELL, GEORGE C., ... Jacksonville.
BISBEE, HORATIO, ... Jacksonville.
BLOUNT, WILLIAM A., ... Pensacola.
BRYAN, NATHAN P., ... Jacksonville.
BRYAN, WILLIAM JAMES, ... Jacksonville.
CLARKSON, WALTER B., ... Jacksonville.
FLETCHER, DUNCAN U., ... Jacksonville.
GLEN, JAMES F., ... Tampa.
HARTRIDGE, JOHN E., ... Jacksonville.
HODGES, WILLIAM C., ... Tallahassee.
LIDDON, BENJ. S., ... Marianna.
MASSEY, LOUIS C., ... Orlando.
MCGARRY, THOMAS F., ... Jacksonville.
RINEHART, C. D., ... Jacksonville.
WILLIAMS, R. W., ... Tallahassee.

GEORGIA.

Abbott, B. F., ... Atlanta.
Adams, Samuel B., ... Savannah.
Akin, John W., ... Cartersville.
Arnold, Reuben R., ... Atlanta.
Bartlett, Charles L., ... Macon.
Black, James C. C., ... Augusta.
Brandon, Morris, ... Atlanta.
Brown, Edward T., ... Atlanta.
Cann, George T., ... Savannah.
Cann, J. Ferris, ... Savannah.
Charlton, Walter G., ... Savannah.
Cobb, A. Ward, ... Atlanta.
Crovatt, A. J., ... Brunswick.
Cumming, Joseph B., ... Augusta.
Cunningham, Henry C., ... Savannah.
Cunningham, T. M., Jr., ... Savannah.
Daley, A. F., ... Wrightsville.
DeLacy, John F., ... Eastman.
Donalson, John E., ... Bainbridge.
duBignon, Fleming G., ... Atlanta.
Ellis, W. D., ... Atlanta.
Erwin, R. G., ... Savannah.
Fogarty, D. G., ... Augusta.
Garrard, Louis F., ... Columbus.
Goetchius, Henry R., ... Columbus.
Gordon, William W., Jr., ... Savannah.
Hammond, William R., ... Atlanta.
Harris, Marion W., ... Macon.
Kay, William E., ... Brunswick.
Lamar, Joseph R., ... Augusta.
Lawton, Alexander R., ... Savannah.
Leaken, William R., ... Savannah.
Mackall, William W., ... Savannah.
Meldrim, P. W., ... Savannah.
Merrill, Joseph Hansell, ... Thomasville.
Miller, Frank H., ... Augusta.
Miller, William K., ... Augusta.
McAlpin, Henry, ... Savannah.
McWhorter, Hamilton, ... Athens.
O'Byrne, M. A., ... Savannah.
Owens, George W., ... Savannah.
Pressly, Charles P., ... Augusta.
Seabrook, Paul E., ... Pineora.
Smith, Burton, ... Atlanta.

GEORGIA.—Continued.

STRICKLAND, JOHN J., ... Athens.
TOOMER, W. M., ... Waycross.
WIMBISH, W. A., ... Atlanta.

HAWAII TERRITORY.

CASTLE, WILLIAM R., ... Honolulu.
DICKEY, LYLE A., ... Honolulu.
SMITH, WILLIAM O., ... Honolulu.
WITHINGTON, DAVID L., ... Honolulu.

IDAHO.

BABB, JAMES E., ... Lewiston.
MERRIMAN, CHARLES A., ... Idaho Falls.
WOODS, WILLIAM W., ... Wallace.

ILLINOIS.

BALDWIN, JESSE A., ... Chicago.
BANCROFT, EDGAR A., ... Chicago.
BANNING, EPHRAIM, ... Chicago.
BARNETT, OTTO R., ... Chicago.
BARTON, GEORGE P., ... Chicago.
BEACH, MYRON H., ... Chicago.
BEALE, WILLIAM G., ... Chicago.
BETHEA, SOLOMON H., ... Chicago.
BILLINGS, CHARLES L., ... Chicago.
BRADWELL, JAMES B., ... Chicago.
BROWN, CHARLES A., ... Chicago.
BROWN, TAYLOR E., ... Chicago.
BURNHAM, TELFORD, ... Chicago.
BURROUGHS, BENJAMIN R., ... Edwardsville.
BURRY, WILLIAM, ... Chicago.
CAPEN, CHARLES L., ... Bloomington.
CATE, ALBION, ... Chicago.
CHANCELLOR, JUSTUS, ... Chicago.
CURRAN, WILLIAM R., ... Pekin.
DANIELS, FRANCIS B., ... Chicago.
DENEEN, CHARLES S. (Springfield, Ill.), ... Chicago.
DENT, THOMAS, ... Chicago.
DICKINSON, J. M., ... Chicago.
DYRENFORTH, PHILIP C., ... Chicago.
DYRENFORTH, WILLIAM H., ... Chicago.
EASTMAN, SIDNEY C., ... Chicago.
FIELD, HEMAN H., ... Chicago.

ILLINOIS.—Continued.

Follansbee, George A., ... Chicago.
Frost, E. Allen, ... Chicago.
Furness, William Eliot, ... Chicago.
Gartside, John M., ... Chicago.
Gibbons, John, ... Chicago.
Gregory, Stephen S., ... Chicago.
Gresham, Otto, ... Chicago.
Grosscup, Peter S., ... Chicago.
Hagan, Henry M., ... Chicago.
Hall, James Parker, ... Chicago.
Harding, Charles F., ... Chicago.
Harker, Oliver A., ... Carbondale.
Hebard, Frederic S., ... Chicago.
Herrick, John J., ... Chicago.
Hill, Lysander, ... Chicago.
Holdom, Jesse, ... Chicago.
Hunter, William R., ... Kankakee.
Hyde, James W., ... Chicago.
Johnson, Frank Asbury, ... Chicago.
Junkin, Francis T. A., ... Chicago.
Karcher, George H., ... Chicago.
Kenna, Edward D., ... Chicago.
Kramer, Edward C., ... East St. Louis.
Kretzinger, George W., ... Chicago.
Lackner, Francis, ... Chicago.
Lawson, William C., ... Chicago.
Lee, Blewett, ... Chicago.
Levinson, S. O., ... Chicago.
Loesch, Frank J., ... Chicago.
Lowden, Frank O., ... Chicago.
Mack, Julian W., ... Chicago.
Manning, William J., ... Chicago.
Martin, Horace H., ... Chicago.
Mather, Robert, ... Chicago.
Mechem, Floyd R., ... Chicago.
Merrick, George Peck, ... Chicago.
Miller, John S., ... Chicago.
Moses, Adolph, ... Chicago.
Musgrave, Harrison, ... Chicago.
McCordic, Alfred E., ... Chicago.
McElroy, John H., ... Chicago.
Newman, Jacob, ... Chicago.
Northrup, Elliott J., ... Urbana.
Offield, Charles K., ... Chicago.

ILLINOIS.—Continued.

Ogden, Howard N., ... Chicago.
Otis, Ephraim A., ... Chicago.
Paden, Joseph E., ... Chicago.
Page, George T., ... Peoria.
Parker, Lewis W., ... Chicago.
Parkinson, Robert H., ... Chicago.
Peabody, Augustus S., ... Chicago.
Peck, George R., ... Chicago.
Pickett, Charles C., ... Urbana.
Pingrey, D. H., ... Bloomington.
Prussing, Eugene E., ... Chicago.
Raymond, James H., ... Chicago.
Rector, Edward, ... Chicago.
Reed, Frank F., ... Chicago.
Richberg, John C., ... Chicago.
Rinaker, John I., ... Carlinville.
Ritsher, Edward C., ... Chicago.
Robbins, Henry S., ... Chicago.
Rogers, Elmer E., ... Chicago.
Rogers, George Mills, ... Chicago.
Rosenthal, Lessing, ... Chicago.
Rubens, Harry, ... Chicago.
Runnells, John S., ... Chicago.
Sanders, George A., ... Springfield.
Scott, Frank H., ... Chicago.
Scott, James B., ... Champaign.
Sheriff, Andrew R., ... Chicago.
Sherman, E. B., ... Chicago.
Smith, Edwin Burritt, ... Chicago.
Starr, Merritt, ... Chicago.
Stillman, Herman W., ... Chicago.
Tenney, Horace Kent, ... Chicago.
Thoman, Leroy D., ... Chicago.
Thornton, Charles S., ... Chicago.
Towle, Henry S., ... Chicago.
Ullman, Frederic, ... Chicago.
Vroman, Charles E., ... Chicago.
Wall, George W., ... Chicago.
Warvelle, George W., ... Chicago.
Washburn, William D., ... Chicago.
West, Roy O., ... Chicago.
Wheeler, Arthur Dana, ... Chicago.
Wigmore, John H., ... Chicago.
Willard, George, ... Chicago.

ILLINOIS.—Continued.

WILLARD, NORMAN P., ... Chicago.
WILLIAMS, E. P., ... Galesburg.
WOODWARD, FREDERIC C., ... Chicago.
ZEISLER, SIGMUND, ... Chicago.

INDIAN TERRITORY.

BLEDSOE, S. T., ... Ardmore.
DAVENPORT, JAMES S., ... Vinita.
GUERRIER, S., ... South McAlester
JACKSON, CLIFFORD L., ... Muskogee.
KORNEGAY, W. H., ... Vinita.
LEDBETTER, WALTER A., ... Ardmore.
RALLS, JOSEPH G., ... Atoka.
SHARP, J. F., ... Purcell.
WEST, PRESTON C., ... Muskogee.
WILLIAMS, ROBERT L., ... Durant.

INDIANA.

BARTHOLOMEW, PLINY W., ... Indianapolis.
BEAUCHAMP, ROBERT B., ... Tipton.
BRADFORD, CHESTER, ... Indianapolis.
BRADY, ARTHUR W., ... Anderson.
BREEN, WILLIAM P., ... Fort Wayne.
BUSHNELL, WILLIAM S., ... Monticello.
BUTLER, NOBLE C., ... Indianapolis.
CARSON, JOHN F., ... Indianapolis.
CHAMBERS, SMILEY N., ... Indianapolis.
CHIPMAN, MARCELLUS A., ... Anderson.
CLAPHAM, WILLIAM E., ... Indianapolis.
CLARKE, GEORGE E., ... South Bend.
COOK, SAMUEL E., ... Huntington.
CUNNINGHAM, GEORGE A., ... Evansville.
DANIELS, EDWARD, ... Indianapolis.
DAVIS, SYDNEY B., ... Terre Haute.
DAVIS, THEODORE P., ... Indianapolis.
DYE, JOHN T., ... Indianapolis.
ELLIOTT, WILLIAM F., ... Indianapolis.
ELLISON, THOMAS E., ... Fort Wayne.
EVANS, ROWLAND, ... Indianapolis.
EWING, JOHN G., ... Notre Dame.
FAIRBANKS, CHARLES W., ... Indianapolis.
FESLER, JAMES WILLIAM, ... Indianapolis.
FRASER, DANIEL, ... Fowler.

INDIANA—Continued.

Frey, Philip W., ... Evansville.
Funkhouser, Arthur F., ... Evansville.
Gould, John H., ... Delphi.
Hammond, Edwin P., ... Lafayette.
Hawkins, Roscoe O., ... Indianapolis.
Haywood, George P., ... Lafayette.
Heaton, Owen N., ... Fort Wayne.
Hogate, Enoch G., ... Bloomington.
Ingler, Francis M., ... Muncie.
Isham, William H., ... Fowler.
Jameson, Ovid B., ... Indianapolis.
Joss, Frederick A., ... Indianapolis.
Kelley, William H., ... Richmond.
Kern, John W., ... Indianapolis.
Ketcham, William A., ... Indianapolis.
Lesh, U. S., ... Huntington.
Lockwood, Virgil H., ... Indianapolis.
Martindale, Charles, ... Indianapolis.
Miller, Charles W., ... Goshen.
Montgomery, Oscar H., ... Seymour.
Moores, Charles W., ... Indianapolis.
Moores, Merrill, ... Indianapolis.
Morris, John, Jr., ... Fort Wayne.
Myers, Quincy A., ... Logansport.
Newberger, Louis, ... Indianapolis.
Noel, James W., ... Indianapolis.
Palmer, Truman F., ... Monticello.
Penfield, W. L. (State Dept., Washington, D.C.), Auburn.
Pickens, Samuel O., ... Indianapolis.
Pickens, William A., ... Indianapolis.
Reinhard, George L., ... Bloomington.
Roby, Frank S., ... Auburn.
Rose, James E., ... Auburn.
Rose, James H., ... Auburn.
Rupe, John L., ... Richmond.
Sayler, Samuel M., ... Huntington.
Sellers, Emory B., ... Monticello.
Simms, Dan W., ... Lafayette.
Smith, Alonzo Greene, ... Indianapolis.
Smith, Charles W., ... Indianapolis.
Snyder, Charles M., ... Fowler.
Spencer, Charles C., ... Monticello.
Stevenson, Elmer E., ... Indianapolis.
Stuart, William V., ... Lafayette.

INDIANA.—Continued.

Swan, Elbert M., ... Rockport.
Taylor, R. S., ... Fort Wayne.
Taylor, William L., ... Indianapolis.
Tuthill, Harry B., ... Michigan City.
Vesey, Allen J., ... Fort Wayne.
Vesey, William J., ... Fort Wayne.
Williams, John G., ... Indianapolis.
Wilson, John R., ... Indianapolis.
Wood, Solomon A., ... Fort Wayne.

IOWA.

Allison, William B., ... Dubuque.
Baldwin, W. W., ... Burlington.
Burk, W. D., ... Muscatine.
Canaday, Walter, ... Melbourne.
Carr, E. M., ... Manchester.
Cliggett, John, ... Mason City.
Cole, Chester C., ... Des Moines.
Craig, John E., ... Keokuk.
Crosby, James O., ... Garnavillo.
Cummins, A. B., ... Des Moines.
Dale, Horatio F., ... Des Moines.
Davis, James C., ... Des Moines.
Deery, John, ... Dubuque.
Devitt, J. F., ... Muscatine.
Dille, John L., ... Des Moines.
Dudley, Charles A., ... Des Moines.
Eaton, William L., ... Osage.
Flickinger, Isaac N., ... Council Bluffs.
Gregory, Charles Noble, ... Iowa City.
Guernsey, Nathaniel T., ... Des Moines.
Henderson, David B., ... Dubuque.
Holsman, Henry B., ... Guthrie Center.
Howell, William C., ... Keokuk.
Hunter, Robert, ... Sioux City.
Kinne, L. G., ... Des Moines.
Knight, W. J., ... Dubuque.
Lenehan, Daniel F., ... Dubuque.
Longueville, J. C., ... Dubuque.
Moffit, John T., ... Tipton.
Murphy, Daniel D., ... Elkader.
McClain, Emlin, ... Iowa City.
McConlogue, James H., ... Mason City.

IOWA.—Continued.

Norris, William H., ... Manchester.
Quarton, William B., ... Algona.
Reed, H. T., ... Cresco.
Roberts, W. J., ... Keokuk.
Robinson, Gifford S., ... Sioux City.
Sawyer, Hazen I., ... Keokuk.
Seevers, George W., ... Oskaloosa.
Sherwin, John C., ... Mason City.
Shiras, Oliver P., ... Dubuque.
Stillman, Walter S. (Omaha, Neb.), ... Council Bluffs.
Swetting, Ernest V., ... Algona.
Swisher, A. E., ... Iowa City.
Wade, M. J., ... Iowa City.
Whitmore, Chester W., ... Ottumwa.
Wright, Carroll, ... Des Moines.
Younker, B. A., ... Des Moines.

KANSAS.

Campbell, Philip P., ... Pittsburg.
Conant, Ernest B., ... Topeka.
Eckstein, O. G., ... Wichita.
Green, J. W., ... Lawrence.
Higgins, William E., ... Lawrence.
Holt, William G., ... Kansas City.
Jones, John J., ... Chanute.
Larimer, Jeremiah B., ... Topeka.
Milliken, John D., ... McPherson.
Moore, J. McCabe, ... Kansas City.
Perkins, Lucius H., ... Lawrence.
Rossington, William H., ... Topeka.
Slonecker, J. G., ... Topeka.
Smith, Charles B., ... Topeka.
Turner, Robert Wilson, ... Mankato.
Waggener, Balie P., ... Atchison.
Waggener, William P., ... Atchison.
Wall, Thomas B., ... Wichita.
Whiteside, Houston, ... Hutchinson.
Williams, Charles M., ... Hutchinson.

KENTUCKY.

Allen, John R., ... Lexington.
Allen, Lafon, ... Louisville.
Baskin, John B., ... Louisville.
Brandeis, Albert S., ... Louisville.

KENTUCKY.—Continued.

Bruce, Helm, ... Louisville.
Bullitt, Thomas W., ... Louisville.
Bullitt, William Marshall, ... Louisville.
Burnett, Henry, ... Louisville.
Calhoun, C. C. (Washington, D. C.), ... Lexington.
Cox, Attilla, Jr., ... Louisville.
Doolan, John C., ... Louisville.
Ellis, W. T., ... Owensboro.
Fairleigh, James Franklin, ... Louisville.
Flexner, Bernard, ... Louisville.
Gilbert, George G., ... Shelbyville.
Grubbs, Charles S., ... Louisville.
Hall, Walker C., ... Covington.
Harris, W. O., ... Louisville.
Helm, James P., ... Louisville.
Hughes, D. H., ... Paducah.
Kohn, Aaron, ... Louisville.
Mackoy, Harry Brent, ... Covington.
Mackoy, William H. (Cincinnati, O.), ... Covington.
Macpherson, Ernest, ... Louisville.
Morton, J. R., ... Lexington.
McDermott, Edward J., ... Louisville.
Pirtle, James S., ... Louisville.
Ray, Charles T., ... Louisville.
Reed, William M., ... Paducah.
Rouse, Shelley D., ... Covington.
Sherley, Swagar, ... Louisville.
Stone, Henry L., ... Louisville.
Sumrall, W. Lawson, ... Harrodsburg.
Thornton, Robert A., ... Lexington.
Thum, William Warwick, ... Louisville.
Tomlin, John G., ... Walton.
Trabue, Edmund F., ... Louisville.
Watts, William W., ... Louisville.

LOUISIANA.

Alexander, Taliaferro, ... Shreveport.
Barret, Thomas C., ... Shreveport.
Benedict, William S., ... New Orleans.
Brice, Albert G., ... New Orleans.
Caffery, Donelson, ... Franklin.
Cahn, Edgar M., ... New Orleans.
Clegg, John, ... New Orleans.
Dart, Henry P., ... New Orleans.

LOUISIANA.—Continued.

DENÉGRE, GEORGE, ... New Orleans.
DENÉGRE, WALTER D., ... New Orleans.
FARRAR, EDGAR H., ... New Orleans.
FLORANCE, ERNEST T., ... New Orleans.
FORMAN, BENJAMIN RICE, ... New Orleans.
HALL, HARRY H., ... New Orleans.
HART, W. O., ... New Orleans.
HOWE, WILLIAM WIRT, ... New Orleans.
HUNT, CARLETON, ... New Orleans.
KERNAN, THOMAS J., ... Baton Rouge.
KRUTTSCHNITT, ERNEST B., ... New Orleans.
LEAKE, HUNTER C., ... New Orleans.
LEGÈNDRE, JAMES, ... New Orleans.
MERRICK, EDWIN T., ... New Orleans.
MCCLOSKEY, BERNARD, ... New Orleans.
PERKINS, ROBERT J., ... New Orleans.
PUJO, ARSENE P., ... Lake Charles.
ROUSE, JOHN D., ... New Orleans.
SAUNDERS, EUGENE D., ... New Orleans.
SUTHERLIN, E. W., ... Shreveport.
THORNTON, J. R., ... Alexandria.

MAINE.

APPLETON, FREDERICK H., ... Bangor.
BELCHER, S. CLIFFORD, ... Farmington.
BIRD, GEORGE E., ... Portland.
COOK, CHARLES SUMNER, ... Portland.
EMERY, LUCILIUS A., ... Ellsworth.
HALE, CLARENCE, ... Portland.
HAMLIN, CHARLES, ... Bangor.
HAMLIN, HANNIBAL E., ... Ellsworth.
HIGGINS, FRANK M., ... Limerick.
LIBBY, CHARLES F., ... Portland.
LITTLEFIELD, CHARLES E., ... Rockland.
MADIGAN, JOHN B., ... Houlton.
POWERS, FREDERICK A., ... Houlton.
SKELTON, WILLIAM B., ... Lewiston.
SNOW, DAVID W., ... Portland.
STROUT, SEWALL C., ... Portland.
SYMONDS, JOSEPH W., ... Portland.
WILSON, F. A., ... Bangor.
WISWELL, ANDREW P., ... Ellsworth.
WOODARD, CHARLES F., ... Bangor.
WOODMAN, EDWARD, ... Portland.

MARYLAND.

Adkins, William H., ... Easton.
Alexander, Julian J., ... Baltimore.
Barroll, Hope H., ... Chestertown.
Bernard, Richard, ... Baltimore.
Bonaparte, Charles J., ... Baltimore.
Brantly, William T., ... Baltimore.
Briscoe, John P., ... Prince Frederick.
Brown, Stewart, ... Baltimore.
Buckler, William H., ... Baltimore.
Carey, Francis K., ... Baltimore.
Carr, James Edward, Jr., ... Baltimore.
Carter, Charles H., ... Baltimore.
Colton, William, ... Baltimore.
Cross, E. J. D., ... Baltimore.
Dawkins, Walter I., ... Baltimore.
Dawson, William H., ... Baltimore.
Dennis, James U., ... Baltimore.
Devecmon, William C., ... Cumberland.
Donnelly, Edward A., ... Baltimore.
Doub, Albert A., ... Cumberland.
Fink, Charles E., ... Westminster.
Gaither, George R., Jr., ... Baltimore.
Gans, Edgar H., ... Baltimore.
Gill, John, Jr., ... Baltimore.
Gould, Ashley M. (Washington, D. C.), . . . Silver Spring.
Gregg, Maurice, ... Baltimore.
Harlan, Henry D., ... Baltimore.
Harley, Charles F., ... Baltimore.
Hayes, Thomas G., ... Baltimore.
Henderson, Robert R., ... Cumberland.
Heuisler, Charles W., ... Baltimore.
Hinkley, John, ... Baltimore.
Hisky, Thomas Foley, ... Baltimore.
Howard, Charles Morris, ... Baltimore.
Hughes, Thomas, ... Baltimore.
Knott, A. Leo, ... Baltimore.
Leakin, J. Wilson, ... Baltimore.
Lee, Blair (Washington, D. C.), ... Silver Spring.
Marbury, William L., ... Baltimore.
Miles, Joshua W., ... Princess Anne.
Morris, Thomas J., ... Baltimore.
Mullin, Michael A., ... Baltimore.
McComas, Louis E., ... Williamsport.
Niles, Alfred S., ... Baltimore.

MARYLAND.—Continued.

Page, Henry, ... Princess Anne.
Perkins, William H., ... Baltimore.
Phelps, Charles E., ... Baltimore.
Poe, John Prentiss, ... Baltimore.
Purnell, Clayton, ... Frostburg.
Richmond, Benjamin A., ... Cumberland.
Robinson, Ralph, ... Baltimore.
Robinson, Thomas H., ... Bel Air.
Rogers, Robert Lyon, ... Baltimore.
Sams, Conway W., ... Baltimore.
Schmucker, Samuel D., ... Baltimore.
Sharp, George M., ... Baltimore.
Sloan, D. Lindley, ... Cumberland.
Smith, Robert H., ... Baltimore.
Steuart, Arthur, ... Baltimore.
Stockbridge, Henry, ... Baltimore.
Thomas, William S., ... Baltimore.
Tuck, Philemon H., ... Baltimore.
Turner, Frank G., ... Baltimore.
Venable, Richard M., ... Baltimore.
Walsh, William E., ... Cumberland.
Walter, M. R., ... Baltimore.
Warfield, Edwin, ... Baltimore.
Waters, J. S. T., ... Baltimore.
Whitelock, George, ... Baltimore.
Williams, Ferdinand, ... Cumberland.
Williams, Henry W., ... Baltimore.
Williams, Stevenson A., ... Bel Air.
Wilmer, L. Allison, ... La Plata.
Young, John S., ... Bel Air.

MASSACHUSETTS.

Adams, Walter, ... So. Framingham.
Allen, Frank D., ... Boston.
Ames, James Barr, ... Cambridge.
Anderson, George W., ... Boston.
Appleton, John H., ... Boston.
Ayers, George D., ... Newton.
Bailey, Hollis R., ... Boston.
Barnes, Charles B., Jr., ... Boston.
Beale, Joseph Henry, Jr., ... Cambridge.
Bell, Charles U., ... Andover.
Bennett, Samuel C., ... Boston.

MASSACHUSETTS.—Continued.

BIGELOW, MELVILLE M.,	Boston.
BLODGETT, EDWARD E.,	Boston.
BRAMAN, GRENVILLE D.,	Boston.
BRANDEIS, LOUIS D.,	Boston.
BRANNAN, J. DODDRIDGE,	Cambridge.
BREWER, DANIEL CHAUNCEY,	Boston.
BULLOCK, A. G.,	Worcester.
BUMPUS, EVERETT C.,	Boston.
CARVER, EUGENE P.,	Boston.
CHAMBERLAYNE, CHARLES F.,	MonumentBeach
CHAMPLIN, EDGAR R.,	Boston.
CHANDLER, ALFRED D.,	Boston.
CLAPP, ROBERT P.,	Lexington.
CLARK, I. R.,	Boston.
CLIFFORD, CHARLES W.,	New Bedford.
COAKLEY, DANIEL H.,	Boston.
COOLIDGE, WILLIAM H.,	Boston.
COPELAND, ALFRED M.,	Springfield.
COTTER, JAMES E.,	Boston.
CRAPO, WILLIAM W.,	New Bedford.
CROCKER, GEORGE G.,	Boston.
CROSBY, JOHN C.,	Pittsfield.
CUNNINGHAM, FREDERIC,	Boston.
CUNNINGHAM, HENRY V.,	Boston.
DABNEY, L. S.,	Boston.
DEWEY, HENRY S.,	Boston.
DICKINSON, M. F.,	Boston.
DILLAWAY, W. E. L.,	Boston.
DODGE, FREDERIC,	Boston.
FALL, GEORGE HOWARD,	Malden.
FISH, FREDERICK P.,	Boston.
FOSTER, ALFRED D.,	Boston.
FOSTER, REGINALD,	Boston.
FRENCH, ARTHUR P.,	Boston.
FRENCH, ASA P.,	Boston.
FRENCH, WILLIAM B.,	Boston.
FRIEDMAN, LEE M.,	Boston.
GALLAGHER, CHARLES T.,	Boston.
GARDNER, CHARLES L.,	Springfield.
GARGAN, THOMAS J.,	Boston.
GIDDINGS, CHARLES,	GreatBarrington.
GRAY, JOHN C.,	Boston.
GRAY, J. CONVERSE,	Boston.
GREENE, FREDERICK L.,	Greenfield.

MASSACHUSETTS.—Continued.

Hale, Richard W., ... Boston.
Hall, Bordman, ... Boston.
Hamlin, Charles S., ... Boston.
Hammond, John C., ... Northampton.
Hemenway, Alfred, ... Boston.
Hill, Arthur Dehon, ... Boston.
Howe, Elmer P., ... Boston.
Hurlbutt, Henry F., ... Boston.
Innes, Charles H., ... Boston.
Jennings, Andrew J., ... Fall River.
Johnson, Benjamin N., ... Boston.
Jones, Leonard A., ... Boston.
Joslin, James T., ... Hudson.
Kellen, William V., ... Boston.
King, Henry W. (New York, N. Y.), ... Worcester.
Ladd, Babson S., ... Boston.
Ladd, Nathaniel W., ... Boston.
Lamb, Samuel O., ... Greenfield.
Lincoln, Solomon, ... Boston.
Lowell, John, ... Boston.
Malone, Dana, ... Greenfield.
Moody, William H. (Washington, D. C.), . . . Haverhill.
Morse, Godfrey, ... Boston.
Morse, Robert M., ... Boston.
Morton, Marcus, ... Boston.
Moulton, Henry P., ... Salem.
Munroe, William A., ... Boston.
Myers, James J., ... Boston.
McClench, William W., ... Springfield.
McEvoy, John W., ... Lowell.
McLaughlin, John D., ... Boston.
Niles, William H., ... Lynn.
Nutter, George R., ... Boston.
Olmstead, James M., ... Boston.
Olney, Richard, ... Boston.
Parker, Herbert, ... Worcester.
Payson, Edward P., ... Boston.
Pearl, Francis H., ... Haverhill.
Pickman, John J., ... Lowell.
Pierce, Edward P., ... Fitchburg.
Pinkerton, Alfred S., ... Worcester.
Proctor, Thomas W., ... Boston.
Putnam, William L., ... Boston.
Ranney, Fletcher, ... Boston.

MASSACHUSETTS.—Continued.

Richardson, George F., ... Lowell.
Richardson, W. K., ... Boston.
Roberts, George L., ... Boston.
Rugg, Arthur P., ... Worcester.
Sawyer, Alfred P., ... Lowell.
Saxe, John W., ... Boston.
Scaife, Lauriston L., ... Boston.
Schofield, William, ... Malden.
Schouler, James, ... Boston.
Sears, Russell A., ... Boston.
Shepard, Harvey N., ... Boston.
Slocum, Edward T., ... Pittsfield.
Slocum, Winfield S., ... Boston.
Smith, Frank Bulkeley, ... Worcester.
Smith, Henry Hyde, ... Boston.
Smith, Jeremiah, ... Cambridge.
Smith, Jeremiah, Jr., ... Boston.
Spring, Arthur L., ... Boston.
Stimson, Frederic J., ... Boston.
Stone, Frederic M., ... Boston.
Storey, Moorfield, ... Boston.
Storrow, James J., ... Boston.
Swan, Charles H., ... Boston.
Swan, William W., ... Boston.
Swasey, George R., ... Boston.
Taft, George S., ... Worcester.
Tucker, George F., ... Boston.
Tyler, Charles H., ... Boston.
Wambaugh, Eugene, ... Cambridge.
Warner, Henry E., ... Boston.
Warner, Joseph B., ... Boston.
Warren, Samuel D., ... Boston.
Wellman, Arthur H., ... Boston.
Weston-Smith, R. D., ... Boston.
Whipple, Sherman L., ... Boston.
White, Luther, ... Chicopee.
Williams, David W., ... Boston.
Williston, Samuel, ... Belmont.
Wyman, Henry A., ... Boston.

MICHIGAN.

Ball, Dan H., ... Marquette.
Barnett, James F., ... Grand Rapids.
Bates, George W., ... Detroit.

MICHIGAN.—Continued.

Bates, Henry M., ... Ann Arbor.
Beaumont, John W., ... Detroit.
Bissell, John H., ... Detroit.
Boudeman, Dallas, ... Kalamazoo.
Brewster, James H., ... Ann Arbor.
Bundy, McGeorge, ... Grand Rapids.
Campbell, Charles H., ... Detroit.
Campbell, Henry M., ... Detroit.
Chadbourne, Thomas L., ... Houghton.
Denison, Arthur C., ... Grand Rapids.
Dickinson, Don M., ... Detroit.
Driggs, Frederick E., ... Detroit.
Duffield, Henry M., ... Detroit.
Durand, Lorenzo T., ... Saginaw, E. S.
Hanchett, Benton, ... Saginaw, W. S.
Harmon, Henry A., ... Detroit.
Hatch, Reuben, ... Grand Rapids.
Hoyt, Hiram J., ... Muskegon.
Hutchins, Harry B., ... Ann Arbor.
Hyde, Wesley W., ... Grand Rapids.
January, William L., ... Detroit.
Keeney, Willard F., ... Grand Rapids.
Kelly, Ronald, ... Detroit.
Kent, Charles A., ... Detroit.
Kingsley, Willard, ... Grand Rapids.
Kinne, Edward D., ... Ann Arbor.
Knappen, Loyal E., ... Grand Rapids.
Lightner, Clarence A., ... Detroit.
Lyster, Henry L., ... Detroit.
Moore, Joseph B., ... Lansing.
Moore, William A., ... Detroit.
Norris, Mark, ... Grand Rapids.
O'Brien, Thomas J., ... Grand Rapids.
Ostrander, Russell C., ... Lansing.
Parkhurst, John G., ... Coldwater.
Patterson, John C., ... Marshall.
Patterson, John H., ... Pontiac.
Patton, John, ... Grand Rapids.
Pond, Ashley, ... Detroit.
Radford, George W., ... Detroit.
Robson, Frank E., ... Detroit.
Russell, Alfred, ... Detroit.
Russell, Henry, ... Detroit.
Sloman, Adolph, ... Detroit.

MICHIGAN.—Continued.

Stevens, Frederick W., ... Detroit.
Stone, John W., ... Marquette.
Swift, Charles M., ... Detroit.
Taggart, Edward, ... Grand Rapids.
Wanty, George P., ... Grand Rapids.
Weadock, Thomas A. E., ... Detroit.
Weaver, Clement E., ... Adrian.
White, Peter, ... Marquette.
Whittemore, James, ... Detroit.
Wilgus, Horace L., ... Ann Arbor.
Wilson, Charles M., ... Grand Rapids.
Wolf, Gustave A., ... Grand Rapids.

MINNESOTA.

Albert, Charles S., ... Minneapolis.
Begg, William R., ... St. Paul.
Bouttelle, M. H., ... Minneapolis.
Brown, Frederick V., ... Minneapolis.
Brown, Rome G., ... Minneapolis.
Buffington, George W., ... Minneapolis.
Chrisman, Charles E., ... Ortonville.
Clark, Homer P., ... St. Paul.
Cohen, Emanuel, ... Minneapolis.
Deutsch, Henry, ... Minneapolis.
Elliott, Charles B., ... Minneapolis.
Fish, Daniel, ... Minneapolis.
Hall, Albert H., ... Minneapolis.
Jaggard, Edwin A., ... St. Paul.
Kellogg, Frank B., ... St. Paul.
Kerr, William A., ... Minneapolis.
Lancaster, William A., ... Minneapolis.
Mason, Alfred F., ... St. Paul.
Mercer, Hugh V., ... Minneapolis.
Paul, A. C., ... Minneapolis.
Randall, Henry E., ... St. Paul.
Sanborn, Walter H., ... St. Paul.
Schaller, Albert (St. Paul, Minn.), ... Hastings.
Shearer, James D., ... Minneapolis.
Sheean, James B., ... St. Paul.
Stringer, Edward C., ... St. Paul.
Tighe, Ambrose, ... St. Paul.
Washburn, Jed L., ... Duluth.
Webber, Marshall B., ... Winona.
Whelan, Ralph, ... Minneapolis.
Young, George B., ... St. Paul.

MISSISSIPPI.

Bowers, E. J., ... Bay St. Louis.
Howry, Charles B. (Washington, D. C.), . . . Oxford.
Montgomery, M. A., ... Oxford.
Rose, A. J., ... Greenville.
Somerville, Thomas H., ... Oxford.
Thompson, R. H., ... Jackson.

MISSOURI.

Abbott, A. L., ... St. Louis.
Allen, Charles Claflin, ... St. Louis.
Ashley, Henry De L., ... Kansas City.
Babbitt, Byron T., ... St. Louis.
Bakewell, Paul, ... St. Louis.
Ball, R. E., ... Kansas City.
Barclay, Shepard, ... St. Louis.
Bates, Charles W., ... St. Louis.
Blair, Albert, ... St. Louis.
Blevins, John A., ... St. Louis.
Boyle, Wilbur F., ... St. Louis.
Brumback, Jefferson, ... Kansas City.
Bryan, P. Taylor, ... St. Louis.
Bryson, Joseph M., ... St. Louis.
Carr, James A.. . . . . St. Louis.
Chandler, Jefferson, ... St. Louis.
Charles, Benjamin H., ... St. Louis.
Christie, Harvey L., ... St. Louis.
Clarke, Enos, ... St. Louis.
Cochran, Alexander G., ... St. Louis.
Collins, Charles Cummings, ... St. Louis.
Curtis, William S., ... St. Louis.
Donaldson, William R., ... St. Louis.
Donaldson, William R., Jr., ... St. Louis.
Douglas, Walter B., ... St. Louis.
Dyer, David P., ... St. Louis.
Early, Marion C., ... St. Louis.
Eliot, Edward C., ... St. Louis.
Ferris, Franklin, ... St. Louis.
Finkelnburg, G. A., ... St. Louis.
Fisher, D. D., ... St. Louis.
Fisse, William E., ... St. Louis.
Flitcraft, Pembrook R., ... St. Louis.
Foster, Robert M., ... St. Louis.
Fowler, A. C., ... St. Louis.
Gantt, James B., ... Jefferson City.

MISSOURI.—Continued.

GARVIN, WILLIAM EVERETT, ... St. Louis.
GATES, EDWARD P., ... Kansas City.
GENTRY, NORTH F., ... Jefferson City.
GRANT, LEE W., ... St. Louis.
GROSSMAN, EMANUEL M., ... St. Louis.
HADLEY, HERBERT S., ... Jefferson City.
HAFF, DELBERT J., ... Kansas City.
HAGERMAN, FRANK, ... Kansas City.
HAGERMAN, JAMES, ... St. Louis.
HAGERMAN, JAMES, JR., ... St. Louis.
HAGERMAN, LEE W., ... St. Louis.
HARKLESS, JAMES H., ... Kansas City.
HIGDON, JOHN C., ... St. Louis.
HINTON, EDWARD W., ... Columbia.
HOPKINS, JAMES L., ... St. Louis.
HOUGH, WARWICK M., ... St. Louis.
HOUTS, CHARLES A., ... St. Louis.
JACKSON, GEORGE P. B., ... St. Louis.
JOHNSON, GEORGE S., ... St. Louis.
JOURDAN, MORTON, ... St. Louis.
JUDSON, FREDERICK N., ... St. Louis.
KARNES, J. V. C., ... Kansas City.
KEHR, EDWARD C., ... St. Louis.
KEYSOR, WILLIAM W., ... St. Louis.
KLEIN, JACOB, ... St. Louis.
LADD, SANFORD B., ... Kansas City.
LATHROP, GARDINER, ... Kansas City.
LAWSON, JOHN D., ... Columbia.
LEE, JOHN F., ... St. Louis.
LEHMANN, FRED. W., ... St. Louis.
LIONBERGER, ISAAC H., ... St. Louis.
LITTLEFIELD, WALTER, ... Kansas City.
LYON, MONTAGUE, ... St. Louis.
LYONS, MARTIN, ... Marshall.
MAHAN, GEORGE A., ... Hannibal.
MAJOR, SAMUEL C., ... Fayette.
MARLATT, HERBERT R., ... St. Louis.
MCKEIGHAN, JOHN E., ... St. Louis.
MCLEOD, W. D., ... Kansas City.
NAGEL, CHARLES, ... St. Louis.
NEW, ALEXANDER, ... Kansas City.
NOBLE, JOHN W., ... St. Louis.
ORRICK, ALLEN C., ... St. Louis.
OTTOFY, L. FRANK, ... St. Louis.

MISSOURI.—Continued.

PALMER, CLARENCE S., ... Kansas City.
PERRY, WILLIAM C., ... Kansas City.
PHILIPS, JOHN F., ... Kansas City.
PORTER, VALENTINE MOTT, ... St. Louis.
PRATT, WALLACE, ... Kansas City.
REYBURN, VALLE, ... St. Louis.
REYNOLDS, MATTHEW G., ... St. Louis.
REYNOLDS, THOMAS H., ... Kansas City.
ROBERT, EDWARD S., ... St. Louis.
ROBERTS, V. H., ... Columbia.
ROBERTSON, GEORGE, ... Mexico.
SCHOFIELD, F. L., ... Hannibal.
SEBREE, FRANK P., ... Kansas City.
SHERWOOD, THOMAS A., ... Springfield.
SKINKER, THOMAS KEATH, ... St. Louis.
SMITH, LUTHER ELY, ... St. Louis.
SPENCER, R. P., ... St. Louis.
SPENCER, SELDEN P., ... St. Louis.
SWARTS, SOLOMON L., ... St. Louis.
TAUSSIG, JAMES, ... St. Louis.
TAYLOR, SENECA N., ... St. Louis.
THOMPSON, WILLIAM B., ... St. Louis.
TICHENOR, CHARLES O., ... Kansas City.
TITUS, FRANK, ... Kansas City.
TRIMBLE, J. McD., ... Kansas City.
WALKER, ROBERT F., ... St. Louis.
WARD, HUGH C., ... Kansas City.
WHELESS, JOSEPH, ... St. Louis.
WILFLEY, LEBBEUS R., ... St. Louis.
WILLIAMS, JAMES C., ... Kansas City.
WILLIAMS, TYRRELL, ... St. Louis.
WIRLIZENUS, FRED., ... St. Louis.
WITHROW, JAMES E., ... St. Louis.
WOOD, HORATIO D., ... St. Louis.

MONTANA.

DIXON, WILLIAM W., ... Butte.
SANDERS, JAMES U., ... Helena.
SCALLON, WILLIAM, ... Butte.

NEBRASKA.

AMES, JOHN H., ... Lincoln.
BALDRIDGE, HOWARD H., ... Omaha.

NEBRASKA.—Continued.

BARTLETT, EDMUND M.,	Omaha.
BAXTER, IRVING F.,	Omaha.
BLACKBURN, THOMAS W.,	Omaha.
BRECKENRIDGE, RALPH W.,	Omaha.
BROGAN, FRANCIS A.,	Omaha.
COSTIGAN, GEORGE P., JR.,	Lincoln.
COWIN, J. C.,	Omaha.
DEWEESE, J. W.,	Lincoln.
DRYDEN, JOHN N.,	Kearney.
DUNDEY, CHARLES L.,	Omaha.
ELGUTTER, CHARLES S.,	Omaha.
GEISTHARDT, STEPHEN L.,	Lincoln.
GREENE, CHARLES J.,	Omaha.
GREENE, ROBERT J.,	Lincoln.
HAINER, EUGENE J.,	Lincoln.
HALL, MATTHEW A.,	Omaha.
HARTIGAN, MICHEL A.,	Hastings.
HASTINGS, W. G.,	Lincoln.
KINKAID, M. P.,	O'Neill.
KINSLER, JAMES C.,	Omaha.
KRETSINGER, E. O.,	Beatrice.
LANGDON, MARTIN,	Omaha.
LETTON, CHARLES B.,	Fairbury.
MAHONEY, TIMOTHY J.,	Omaha.
MANDERSON, CHARLES F.,	Omaha.
MATTERS, THOMAS H.,	Harvard.
MONTGOMERY, CARROLL S.,	Omaha.
MUNGER, W. H.,	Omaha.
MCCANDLESS, A. D.,	Wymore.
MCHUGH, WILLIAM D.,	Omaha.
OLDHAM, WILLIS D.,	Kearney.
O'NEILL, HARRY E.,	Omaha.
POUND, ROSCOE,	Lincoln.
PROUT, F. N.,	Lincoln.
RAIN, FRANK L.,	Fairbury.
REESE, MANOAH B.,	Lincoln.
ROBBINS, C. A.,	Lincoln.
SEDGWICK, S. H.,	York.
SMITH, HOWARD B.,	Omaha.
VAN DUSEN, JAMES H.,	Omaha.
WAKELEY, ELEAZER,	Omaha.
WEBSTER, JOHN L.,	Omaha.
WEST, JOEL W.,	Omaha.
WHITE, BENJAMIN T.,	Omaha.

NEBRASKA.—Continued.

Wilson, Henry H., ... Lincoln.
Woods, Frank H., ... Lincoln.
Woolley, James H., ... Grand Island.
Woolworth, James M., ... Omaha.

NEVADA.

Downer, Sylvester S., ... Reno.
Huffaker, Francis M., ... Virginia City.

NEW HAMPSHIRE.

Albin, John H., ... Concord.
Batchellor, Albert S., ... Littleton.
Branch, Oliver E., ... Manchester.
Burleigh, Alvin, ... Plymouth.
Burnham, Henry E., ... Manchester.
Burns, Charles H., ... Nashua.
Chase, Ira A., ... Bristol.
Colby, James F., ... Hanover.
Cross, David, ... Manchester.
Eastman, Samuel C., ... Concord.
Fellows, Joseph W., ... Manchester.
Frink, J. S. H., ... Portsmouth.
Hurd, Henry N., ... Manchester.
Perkins, David Walter, ... Manchester.
Streeter, Frank S., ... Concord.

NEW JERSEY.

Applegate, John S., ... Red Bank.
Bergen, James J., ... Somerville.
Borcherling, Charles, ... Newark.
Buchanan, James, ... Trenton.
Clevenger, William M., ... Atlantic City.
Cole, Clarence L., ... Atlantic City.
Coley, Edward M., ... Newark.
Dunn, Michael, ... Paterson.
Ely, John J., ... Freehold.
Emery, John R., ... Newark.
Fort, J. Franklin, ... East Orange.
Garfield, Harry A., ... Princeton.
Garretson, A. Q., ... Morristown.
Godfrey, Burrows C., ... Atlantic City.
Goodell, Edwin B., ... Montclair.
Grant, Alexander, Jr., ... Newark.

NEW JERSEY.—Continued.

Griggs, John W. (New York, N. Y.), ... Paterson.
Hamill, Hugh H., ... Trenton.
Hardin, John R., ... Newark.
Hartshorne, Charles H., ... Jersey City.
Hutchinson, Barton R., ... Trenton.
Keasbey, Edward Q., ... Newark.
Lanning, William M., ... Trenton.
Lyon, Adrian, ... Perth Amboy.
McCarter, Robert H., ... Newark.
Parker, Charles W., ... Jersey City.
Parker, Chauncey G., ... Newark.
Parker, Cortlandt, ... Newark.
Parker, Cortlandt, Jr., ... Newark.
Parker, R. Wayne, ... Newark.
Randolph, Carman F. (New York, N. Y.), . . Morristown.
Riker, Adrian, ... Newark.
Shipman, George M., ... Belvidere.
Strong, Alan H., ... New Brunswick.
Swayze, Francis J., ... Newark.
Terrell, William J., ... Burlington.
Vroom, Garret D. W., ... Trenton.
Wilson, Woodrow, ... Princeton.
Woodruff, Robert S., ... Trenton.

NEW MEXICO TERRITORY.

Catron, Thomas B., ... Santa Fé.

NEW YORK.

Abbot, Everett V., ... New York.
Adams, Elbridge L., ... Rochester.
Andrews, James D., ... New York.
Ashley, Clarence D., ... New York.
Bacon, Selden, ... New York.
Barber, Arthur William, ... New York.
Bartlett, John P.. . . . . New York.
Beck, James M., ... New York.
Bell, Clark, ... Dundee.
Benedict, Abraham, ... New York.
Benedict, Robert D., ... New York.
Bijur, Nathan, ... New York.
Binney, Harold, ... New York.
Bischoff, Henry, Jr., ... New York.
Bogert, Henry L., ... New York.

NEW YORK.—Continued.

BOOTHBY, JOHN WILLIAM,	New York.
BROWN, ADDISON,	New York.
BROWN, WILLIAM G.,	New York.
BRUNO, RICHARD M.,	New York.
BUCHANAN, CHARLES J.,	Albany.
BURDICK, FRANCIS M.,	New York.
BURR, CHARLES L.,	New York.
BUTLER, CHARLES HENRY (Washington, D. C.),	New York.
BUTLER, WILLIAM ALLEN, JR.,	New York.
BUTTON, FREDERICK H.,	New York.
BUTTON, WILLIAM H.,	New York.
BYRNE, JAMES,	New York.
CALLAGHAN, ALEXANDER J. A.,	New York.
CAMERON, FREDERICK W.,	Albany.
CAREY, MARTIN,	Buffalo.
CARPENTER, JAMES E.,	New York.
CHASE, GEORGE,	New York.
CHOATE, JOSEPH H.,	New York.
CLARK, MARTIN,	Buffalo.
COCKRAN, W. BOURKE,	New York.
COLLIER, M. DWIGHT,	New York.
COOK, WILLIAM W.,	New York.
COUDERT, FREDERIC R., JR.,	New York.
COXE, HANSON C. (Paris, France),	New York.
COXE, MACGRANE,	New York.
CRANE, FREDERICK E.,	Brooklyn.
CUNNEEN, JOHN,	Buffalo.
DANAHER, FRANKLIN M.,	Albany.
DAVIES, JULIEN T.,	New York.
DAVIES, WILLIAM GILBERT,	New York.
DAVIS, HENRY K.,	New York.
DAVIS, VERNON M.,	New York.
DAW, GEORGE W.,	Troy.
DEERING, JAMES A.,	New York.
DENISON, HOWARD P.,	Syracuse.
DEPEW, CHAUNCEY M.,	New York.
DILLON, JOHN F.,	New York.
DIVEN, GEORGE M.,	Elmira.
DOS PASSOS, JOHN R.,	New York.
DOUGHERTY, J. HAMPDEN,	New York.
DOYLE, LOUIS F.,	New York.
DREW, WILLIAM L.,	Ithaca.
DUELL, CHARLES H. (Washington, D. C.),	New York.
DUGAN, PATRICK C.,	Albany.

NEW YORK.—Continued.

Dutton, John A., ... New York.
Dyer, Richard N., ... New York.
Elkus, Abram I., ... New York.
Estabrook, Henry D., ... New York.
Ewing, Hampton D., ... New York.
Fearons, George H., ... New York.
Field, Frank Harvey, ... Brooklyn.
Fiero, J. Newton, ... Albany.
Finch, Edward R., ... New York.
Fitch, Theodore, ... New York.
Fleischmann, Simon, ... Buffalo.
Foster, Roger, ... New York.
Fox, Austen G., ... New York.
Fuller, Paul, ... New York.
Gardner, Jas. M., ... New York.
Gardner, John M., ... New York.
Gibbs, Clinton B., ... Buffalo.
Gifford, Livingston, ... New York.
Gillen, William W., ... Jamaica.
Gleason, John H., ... Albany.
Glynn, Martin H., ... Albany.
Goodelle, William P., ... Syracuse.
Greeley, William B., ... New York.
Guthrie, William D., ... New York.
Hand, Richard L., ... Elizabethtown.
Hanford, Solomon, ... New York.
Hawes, Gilbert Ray, ... New York.
Hawkesworth, R. W., ... New York.
Heermance, Martin, ... Poughkeepsie.
Herendeen, Edward G., ... Elmira.
Hirschberg, Henry, ... Brooklyn.
Hornblower, William B., ... New York.
Hotchkiss, William Horace, ... Buffalo.
Hubbard, Harry, ... New York.
Hubbard, Thomas H., ... New York.
Huffcut, E. W., ... Ithaca.
Hughes, Charles E., ... New York.
Ingalsbe, Grenville M., ... Sandy Hill.
Irvine, Frank, ... Ithaca.
Jackson, William H., ... New York.
Jellinek, Edward L., ... Buffalo.
Johnston, Thomas J., ... New York.
Joline, Adrian H., ... New York.
Jones, W. Martin, ... Rochester.

NEW YORK.—Continued.

Kalish, Edwin L., ... New York.
Keener, William A., ... New York.
Kellogg, E. Barstow, ... New York.
Kellogg, L. Laflin, ... New York.
Kenyon, William H., ... New York.
Kerr, Thomas B., ... New York.
Kiddle, Alfred W., ... New York.
Kilvert, Thomas, ... New York.
Kirchwey, George W., ... New York.
Kirlin, J. Parker, ... New York.
Knauth, Antonio, ... New York.
Knox, Charles H., ... New York.
Krauthoff, L. C., ... New York.
Lamberton, C. L., ... New York.
Leavitt, John Brooks, ... New York.
Levis, Howard C. (London, England), ... Schenectady.
Levy, Joseph L., ... New York.
Lindsay, William, ... New York.
Littleton, Martin W., ... Brooklyn.
Logan, Walter S., ... New York.
MacFarland, W. W., ... New York.
Mack, William, ... New York.
Merchant, Henry D., ... New York.
Meyers, Sidney S., ... New York.
Milburn, John G., ... New York.
Miller, Hugh Gordon, ... New York.
Miller, William W., ... New York.
Milnor, M. Cleiland, ... New York.
Moore, John Bassett, ... New York.
Moot, Adelbert, ... Buffalo.
Morse, Waldo G., ... New York.
Moses, Raphael J., ... New York.
Myers, Nathaniel, ... New York.
McCall, Edward E., ... New York.
McCook, John J., ... New York.
McCrary, A. J., ... Binghamton.
McIntosh, James H., ... New York.
McKinney, William M., ... Northport.
McLaughlin, Frederick C., ... New York.
McLean, Donald, ... New York.
McNulty, William D., ... New York.
Nichols, George L., ... New York.
Nicolson, John, Jr., ... New York.
Noble, Daniel, ... Long Island City

NEW YORK.—Continued.

NOBLE, HERBERT,	New York.
OLCOTT, J. VAN VECHTEN,	New York.
OPDYKE, WILLIAM S.,	New York.
OSGOOD, HOWARD L.,	Rochester.
PARKER, ALTON B.,	Kingston.
PARSONS, HINSDILL,	Schenectady.
PETTY, ROBERT D.,	New York.
PIERCE, WINSLOW S.,	New York.
POTTER, FREDERICK,	New York.
PRIME, RALPH E.,	Yonkers.
PUTNAM, HARRINGTON,	New York.
QUACKENBUSH, JAMES L.,	Buffalo.
REDDING, JOSEPH D.,	New York.
REDDING, WILLIAM A.,	New York.
REDFIELD, HENRY S.,	New York.
REEVES, ALFRED G.,	New York.
RICH, BURDETTE A.,	Rochester.
RODENBECK, ADOLPH J.,	Rochester.
ROOT, ELIHU,	New York.
RUDD, WILLIAM PLATT,	Albany.
RUSSELL, ISAAC F.,	New York.
RUSSELL, WILLIAM HEPBURN,	New York.
SCOTT, JAMES L.,	Saratoga Springs.
SEXTON, PLINY T.,	Palmyra.
SEYMOUR, HENRY H.,	Buffalo.
SHACK, FERDINAND,	New York.
SMITH, NELSON,	New York.
SPEIR, GILBERT M.,	New York.
SQUIRES, A. L.,	New York.
STETSON, FRANCIS LYNDE,	New York.
STILLMAN, THOMAS E.,	New York.
SUMERWELL, E. K.,	New York.
SUMNER, EDWARD A.,	New York.
SUTRO, THEODORE,	New York.
TAGGART, RUSH,	New York.
TOMPKINS, HAMILTON B.,	New York.
TREMAIN, HENRY E.,	New York.
VANAMEE, WILLIAM,	Newburgh.
VAN SLYCK, GEORGE F.,	New York.
VAN SLYCK, GEORGE W.,	New York.
VAN VECHTEN, A. V. W.,	New York.
VIEU, HENRY A.,	New York.
VILLARD, HAROLD G.,	New York.
WADHAMS, FREDERICK E.,	Albany.

NEW YORK.—Continued.

WALDO, GEORGE E.,	New York.
WALKER, ALBERT H.,	New York.
WALSH, ARTHUR R.,	Albany.
WARD, HAMILTON,	Buffalo.
WARD, HENRY GALBRAITH,	New York.
WARNER, GEORGE COFFING,	New York.
WARNER, JOHN DEWITT,	New York.
WEEKS, WILLIAM R.,	New York.
WETMORE, EDMUND,	New York.
WHEELER, EVERETT P.,	New York.
WHITNEY, EDWARD B.,	New York.
WHITTAKER, EGBERT,	Saugerties.
WILCOX, ANSLEY,	Buffalo.
WILLCOX, DAVID,	New York.
WING, HENRY T.,	New York.
WINSLOW, WILLIAM BEVERLY,	New York.
WOLLMAN, HENRY,	New York.
WOODRUFF, EDWIN H.,	Ithaca.

NORTH CAROLINA.

ANDREWS, ALEXANDER BOYD, JR.,	Raleigh.
BIGGS, J. CRAWFORD,	Durham.
BRIDGERS, JOHN L.,	Tarboro.
BUSBEE, FABIUS H.,	Raleigh.
CLEMENT, L. H.,	Salisbury.
DAVIDSON, THEODORE F.,	Asheville.
DOUGLAS, ROBERT M.,	Greensboro.
MANLY, CLEMENT,	Winston-Salem.
MEARES, IREDELLE,	Wilmington.
PATTERSON, LINDSAY,	Winston-Salem.
PRUDEN, WILLIAM D.,	Edenton.
WALKER, PLATT D.,	Raleigh.

NORTH DAKOTA.

AUSTIN, JAMES M.,	Ellendale.
BOSARD, JAMES H.,	Grand Forks.
BRUCE, ANDREW A.,	Grand Forks.
SPALDING, BURLEIGH FOLSOM,	Fargo.
THOMAS, W. H.,	Leeds.

OHIO.

ANDERSON, JAMES H.,	Columbus.
BETTMAN, ALFRED,	Cincinnati.
BURKET, HARLAN F.,	Findlay.

OHIO.—Continued.

Burket, Jacob F., ... Findlay.
Bushnell, T. H., ... Cleveland.
Calhoun, Pat., ... Cleveland.
Clarke, John H., ... Cleveland.
Cleveland, Harlan, ... Cincinnati.
Colston, Edward, ... Cincinnati.
Cook, E. S., ... Cleveland.
Cushing, William E., ... Cleveland.
Day, William R. (Washington, D. C.), ... Canton.
Dempsey, James H., ... Cleveland.
Dickman, Franklin J., ... Cleveland.
Doyle, John H., ... Toledo.
Durban, Frank A., ... Zanesville.
Ferguson, Edward A., ... Cincinnati.
Ferris, Aaron A., ... Cincinnati.
Follett, Alfred Dewey, ... Marietta.
Follett, Martin Dewey, ... Marietta.
Freiberg, A. Julius, ... Cincinnati.
Fuller, Clifford W., ... Cleveland.
Geddes, Frederick L., ... Toledo.
Goff, Frederick H., ... Cleveland.
Goulder, Harvey D., ... Cleveland.
Granger, Moses M., ... Zanesville.
Hadden, Alexander, ... Cleveland.
Harmon, Judson, ... Cincinnati.
Harper, Jacob Chandler, ... Cincinnati.
Henderson, John M., ... Cleveland.
Hepburn, Charles M., ... Cincinnati.
Hines, Clark B., ... Bellville.
Hoadly, George, Jr., ... Cincinnati.
Hogsett, Thomas H., ... Cleveland.
Hollister, Thomas, ... Cincinnati.
Hopkins, Evan H., ... Cleveland.
Howland, Paul, ... Cleveland.
Hoyt, James H., ... Cleveland.
Hunt, Charles J., ... Cincinnati.
Hunt, Samuel F., ... Cincinnati.
James, Francis B., ... Cincinnati.
Johnson, Homer H., ... Cleveland.
Johnson, Simeon M., ... Cincinnati.
Jones, Asahel W., ... Youngstown.
Jones, Rankin D., ... Cincinnati.
Kennon, Newell K., ... St. Clairsville.
Kibler, Edward, ... Newark.

OHIO.—Continued.

King, Edmund B, ... Sandusky.
Kline, Virgil P., ... Cleveland.
Knight, Walter A., ... Cincinnati.
Lawrence, James, ... Cleveland.
Matthews, C. Bentley, ... Cincinnati.
Maxwell, Lawrence, Jr., ... Cincinnati.
McMahon, J. Sprigg, ... Dayton.
Norris, Myron A., ... Youngstown.
Patterson, M. R., ... Columbus.
Quail, Frank A., ... Cleveland.
Ranney, Henry C., ... Cleveland.
Reece, Patterson A., ... Cincinnati.
Robertson, C. D., ... Cincinnati.
Rogers, William P., ... Cincinnati.
Saltzgaber, Gaylard M., ... Van Wert.
Sanders, W. B., ... Cleveland.
Sayler, John Ryner, ... Cincinnati.
Seney, Henry W., ... Toledo.
Smith, J. H. Charles, ... Cincinnati.
Smith, Rufus B., ... Cincinnati.
Squire, Andrew, ... Cleveland.
Stewart, Gilbert H., ... Columbus.
Stoehr, Oscar, ... Cincinnati.
Strong, Edward W., ... Cincinnati.
Taft, William H. (Washington, D. C.), ... Cincinnati.
Tolles, Sheldon H., ... Cleveland.
Troup, James O., ... Bowling Green.
VanDeman, John N., ... Dayton.
Vorys, Arthur I., ... Lancaster.
Warrington, John W., ... Cincinnati.
Wheeler, Seth S., ... Lima.
Worthington, William, ... Cincinnati.
Young, George R., ... Dayton.

OKLAHOMA TERRITORY.

Ames, Charles B., ... Oklahoma City.
Asp, Henry E., ... Guthrie.
Beauchamp, James K., ... Enid
Bierer, A. G. Curtin, ... Guthrie.
Blake Ernest E., ... El Reno.
Burford, John Henry, ... Guthrie.
Burwell, Benjamin F., ... Oklahoma City.
Diggs, James B., ... Perry.
Fulton, E. L., ... Pawnee.

OKLAHOMA TERRITORY.—Continued.

Flynn, Dennis T., ... Oklahoma City.
Gillette, Frank E., ... Anadarke.
Hainer, Bayard T., ... Perry.
Huston, Abraham H., ... Guthrie.
Irwin, C. F., ... El Reno.
Kane, Matthew J., ... Kingfisher.
Mackey, Arthur M., ... Pond Creek.
Martin, Henry B., ... Perry.
Pancoast, J. L., ... Alva.
Scott, Joel R., ... Perry.
Shear, B. D., ... Oklahoma City.
Tetirick, W. C., ... Blackwell.
Wells, Frank, ... Oklahoma City.
Womack, T. J., ... Alva.
Wrightsman, Charles J., ... Pawnee.

OREGON.

Bean, Robert S., ... Salem.
Carey, Charles H., ... Portland.
Fenton, William D., ... Portland.
Holman, Frederick V., ... Portland.
Moore, F. A., ... Salem.
Schnabel, Charles J., ... Portland.
Stillman, Alphonso D., ... Pendleton.

PENNSYLVANIA.

Alexander, Lucien H., ... Philadelphia.
Andre, John K., ... Philadelphia.
Ashhurst, Richard L., ... Philadelphia.
Baer, George F., ... Reading.
Barnes, John Hampton, ... Philadelphia.
Bayard, James Wilson, ... Philadelphia.
Bedford, J. Claude, ... Philadelphia.
Beeber, Dimner, ... Philadelphia.
Bell, John C., ... Philadelphia.
Bertolette, Frederick, ... Mauch Chunk.
Binney, Charles Chauncey, ... Philadelphia.
Bispham, George Tucker, ... Philadelphia.
Brightly, Frank F., ... Philadelphia.
Brown, Francis Shunk, ... Philadelphia.
Brown, J. Hay, ... Lancaster.
Brown, John A., ... Philadelphia.
Brown, John Douglass, ... Philadelphia.

PENNSYLVANIA.—Continued.

Brown, Reynolds D., ... Philadelphia.
Bucher, Joseph C., ... Lewisburg.
Budd, Henry, ... Philadelphia.
Burnett, William H., ... Philadelphia.
Burr, Charles A., ... Philadelphia.
Cadwalader, John, ... Philadelphia.
Carr, William Wilkins, ... Philadelphia.
Carson, Hampton L., ... Philadelphia.
Chambers, Francis T., ... Philadelphia.
Chapman, S. Spencer, ... Philadelphia.
Christy, George H., ... Pittsburgh.
Clement, Charles M., ... Sunbury.
Colahan, John Barry, ... Philadelphia.
Cuyler, Thomas DeWitt, ... Philadelphia.
Dana, Samuel W., ... New Castle.
Dickson, Samuel, ... Philadelphia.
Duane, Russell, ... Philadelphia.
Ewing, Nathaniel, ... Uniontown.
Farquhar, Guy E., ... Pottsville.
Fenton, Hector T., ... Philadelphia.
Fisher, William Righter, ... Philadelphia.
Fox, Edward J., ... Easton.
Fraley, Joseph C., ... Philadelphia.
Fredericks, John T., ... Williamsport.
Freedley, A. T., ... Philadelphia.
Futrell, William H., ... Philadelphia.
Gates, Thomas S., ... Philadelphia.
Gest, John Marshall, ... Philadelphia.
Geyelin, Henry Laussat, ... Philadelphia.
Gilbert, Lyman D., ... Harrisburg.
Given, William B., ... Columbia.
Glasgow, William A., Jr., ... Philadelphia.
Graham, George S., ... Philadelphia.
Gray, James C., ... Pittsburgh.
Griffith, Warren G., ... Philadelphia.
Guthrie, George W., ... Pittsburgh.
Hall, William M., Jr., ... Pittsburgh.
Hammond, William S., ... Altoona.
Hargest, William M., ... Harrisburg.
Harrity, William F., ... Philadelphia.
Hemphill, Joseph, ... West Chester.
Hensel, W. U., ... Lancaster.
Hewitt, Luther E., ... Philadelphia.
Hiester, Isaac, ... Reading.

PENNSYLVANIA.—Continued.

Howson, Charles, ... Philadelphia.
Hoyt, Henry M. (Washington, D. C.), ... Philadelphia.
Hunter, Ernest Howard, ... Philadelphia.
Jayne, H. LaBarre, ... Philadelphia.
Jones, J. Levering, ... Philadelphia.
Jones, Richmond L., ... Reading.
Kane, Francis Fisher, ... Philadelphia.
Kay, James I., ... Pittsburgh.
Keator, John F., ... Philadelphia.
Knox, P. C. (Washington, D. C.), ... Pittsburgh.
Kulp, George B., ... Wilkes Barre.
Lamberton, James M., ... Harrisburg.
Landis, Charles I., ... Lancaster.
Lewis, Francis D., ... Philadelphia.
Lewis, John F., ... Philadelphia.
Lewis, W. Draper, ... Philadelphia.
Lindsey, Edward, ... Warren.
Lloyd, Malcolm, Jr., ... Philadelphia.
Lyon, Walter, ... Pittsburgh.
Maffett, James T., ... Clarion.
Martin, J. Willis, ... Philadelphia.
Mercer, George Gluyas, ... Philadelphia.
Mercur, Rodney A., ... Towanda.
Mervine, Nicholas P., ... Altoona.
Mestrezat, S. Leslie, ... Uniontown.
Mikell, William E., ... Philadelphia.
Miller, E. Spencer, ... Philadelphia.
Miller, N. Dubois, ... Philadelphia.
Miner, Sidney R., ... Wilkes Barre.
Morgan, Charles E., Jr., ... Philadelphia.
Morgan, Randal, ... Philadelphia.
Mullin, Eugene, ... Bradford City.
Munson, C. LaRue, ... Williamsport.
McClintock, Andrew H., ... Wilkes Barre.
McClung, Wm. H., ... Pittsburgh.
McClure, Harold M., ... Lewisburg.
McKee, Charles H., ... Pittsburgh.
Nichols, H. S. P., ... Philadelphia.
Niles, Henry C., ... York.
North, E. D., ... Lancaster.
North, Hugh M., ... Columbia.
Olmsted, Marlin E., ... Harrisburg.
Page, Howard W., ... Philadelphia.
Page, S. Davis, ... Philadelphia.

PENNSYLVANIA.—Continued.

PALMER, HENRY W.,	Wilkes Barre.
PANCOAST, CHARLES E.,	Philadelphia.
PATTERSON, GEORGE S.,	Philadelphia.
PATTERSON, ROSWELL H.,	Scranton.
PATTERSON, T. ELLIOTT,	Philadelphia.
PATTERSON, THOMAS,	Pittsburgh.
PEALE, S. R.,	Lock Haven.
PENNYPACKER, CHARLES H.,	West Chester.
PENNYPACKER, SAMUEL W.,	Harrisburg.
PEPPER, GEORGE WHARTON,	Philadelphia.
PETTIT, HORACE,	Philadelphia.
PORTER, WILLIAM D.,	Pittsburgh.
POTTER, WILLIAM P.,	Pittsburgh.
PRICHARD, FRANK P.,	Philadelphia.
RALSTON, ROBERT,	Philadelphia.
RAWLE, FRANCIS,	Philadelphia.
RAWLE, FRANCIS WILLIAM,	Philadelphia.
REARDON, JOHN J.,	Williamsport.
RICE, WILLIAM E.,	Warren.
ROWE, LEE STANTON,	Philadelphia.
RUHL, CHRISTIAN H.,	Reading.
RYON, WILLIAM W.,	Shamokin.
SCOTT, WILLIAM,	Pittsburgh.
SEIBERT, WILLIAM N.,	New Bloomfield.
SHAPLEY, RUFUS E.,	Philadelphia.
SHIELDS, J. M.,	Pittsburgh.
SIMPSON, ALEXANDER, JR.,	Philadelphia.
SMEAD, A. D. B.,	Carlisle.
SMITH, ALFRED PERCIVAL,	Philadelphia.
SMITH, THOMAS KILBY,	Philadelphia.
SMITH, WALTER GEORGE,	Philadelphia.
SMITHERS, WILLIAM W.,	Philadelphia.
SNARE, JACOB,	Philadelphia.
STAAKE, WILLIAM H.,	Philadelphia.
STEELE, HENRY J.,	Easton.
STERRETT, JAMES R.,	Pittsburgh.
STEWART, RUSSELL C.,	Easton.
STEWART, W. F. BAY,	York.
STILLWELL, JAMES C.,	Philadelphia.
STOEVER, WILLIAM C.,	Philadelphia.
STOUGHTON, A. B.,	Philadelphia.
STRAWBRIDGE, WILLIAM C.,	Philadelphia.
SULZBERGER, MAYER,	Philadelphia.
SWEARINGEN, J. M.,	Pittsburgh.

PENNSYLVANIA.—Continued.

SYNNESTVEDT, PAUL, ... Pittsburgh.
TAULANE, JOSEPH H., ... Philadelphia.
TAYLOR, JOSEPH T., ... Philadelphia.
THOMPSON, A. M., ... Pittsburgh.
TODD, M. HAMPTON, ... Philadelphia.
TOWNSEND, CHARLES C., ... Philadelphia.
TRICKETT, WILLIAM, ... Carlisle.
UMBEL, ROBERT E., ... Uniontown.
VON MOSCHZISKER, ROBERT, ... Philadelphia.
WALTON, HENRY F., ... Philadelphia.
WATERS, ASA W., ... Philadelphia.
WATSON, D. T., ... Pittsburgh.
WATTERSON, A. V. D., ... Pittsburgh.
WAY, WILLIAM A., ... Pittsburgh.
WEAVER, JOHN, ... Philadelphia.
WEIL, A. LEO, ... Pittsburgh.
WHITLOCK, HENRY C., ... Philadelphia.
WILCOX, WILLIAM A., ... Scranton.
WILLARD, EDWARD N., ... Scranton.
WILLIAMS, IRA JEWELL, ... Philadelphia.
WINDLE, WILLIAM S., ... West Chester.
WINTERNITZ, BENJAMIN A., ... New Castle.
WISE, JESSE H., ... Pittsburgh.
WOLVERTON, SIMON P., ... Sunbury.
WOODRUFF, CLINTON ROGERS, ... Philadelphia.
WORK, JAMES C., ... Uniontown.

PHILIPPINE ISLANDS.

YANCEY, DAVID WALKER, ... Manila.

RHODE ISLAND.

ALDRICK, CLARENCE A., ... Providence.
ANGELL, LOUIS L., ... Providence.
ANGELL, WALTER F., ... Providence.
BAKER, ALBERT A., ... Providence.
BAKER, DARIUS, ... Newport.
BALLOU, DANIEL R., ... Providence.
BARNEY, WALTER H., ... Providence.
BOSWORTH, ORRIN L., ... Bristol.
CHAMPLAIN, IRVING, ... Providence.
COLT, LEBARON B., ... Providence.
COLLINS, JAMES C., JR., ... Providence.
COMSTOCK, RICHARD, ... Providence.
CRAM, HENRY C., ... Providence.

RHODE ISLAND.—Continued.

Curtis, Harry C., ... Providence.
Easton, Frank T., ... Providence.
Eaton, Amasa M., ... Providence.
Edwards, Seeber, ... Providence.
Gardner, Rathbone, ... Providence.
Greenough, William B., ... Providence.
Hefferman, John J., ... Woonsocket.
Higgins, James H., ... Pawtucket.
Hinckley, Frank L., ... Providence.
Hogan, John W., ... Providence.
Jenckes, Thomas A., ... Providence.
Littlefield, Nathan W., ... Providence.
Lyman, Richard E., ... Providence.
Miller, Augustus S., ... Providence.
McCaffrey, Joseph J., ... Providence.
McCarthy, P. J., ... Providence.
McDonnell, Thomas F. I., ... Providence.
Norris, Samuel, ... Bristol.
O'Connor, E. DeV., ... Providence.
Pierce, E. C., ... Providence.
Potter, Dexter B., ... Providence.
Rich, William G., ... Woonsocket.
Stearns, Charles F., ... Providence.
Stiness, John H., ... Providence.
Sweetland, William H., ... Providence.
Thurston, Wilmarth H., ... Providence.
Tillinghast, Frank W., ... Providence.
Tillinghast, James, ... Providence.
Tillinghast, William R., ... Providence.
Wilson, Charles A., ... Providence.
Woods, John Carter Brown, ... Providence.

SOUTH CAROLINA.

Buist, George Lamb, ... Charleston.
Buist, Henry, ... Charleston.
Lyles, William H., ... Columbia.
Moore, M. Herndon, ... Columbia.
Mordecai, T. Moultrie, ... Charleston.
Mower, George Sewell, ... Newberry.
McMahon, John J., ... Columbia.
Simpson, S. J., ... Spartanburg.
Smythe, Augustine T., ... Charleston.
Wilcox, P. A., ... Florence.
Young, Henry E., ... Charleston.

SOUTH DAKOTA.

AIKENS, FRANK R., ... Sioux Falls.
BAILEY, CHARLES O., ... Sioux Falls.
CRAWFORD, COE I., ... Huron.
GOODNER, IVAN W., ... Pierre.
TRIPP, BARTLETT, ... Yankton.
VOORHEES, JOHN H., ... Sioux Falls.
WELLS, ROLLIN J., ... Sioux Falls.

TENNESSEE.

BAXTER, E. J., ... Jonesboro.
BAXTER, ED., ... Nashville.
BONNER, J. W., ... Nashville.
CAMP, E. C., ... Knoxville.
CAMPBELL, LEMUEL R., ... Nashville.
CARROLL, WILLIAM H., ... Memphis.
CATES, CHARLES T., JR., ... Knoxville.
HARWOOD, THOMAS E., ... Trenton.
HENDERSON, G. MC., ... Rutledge.
INGERSOLL, HENRY H., ... Knoxville.
LEA, OVERTON, ... Nashville.
LUSK, ROBERT, ... Nashville.
MALONE, THOMAS H., ... Nashville.
MAYFIFLD, J. E., ... Cleveland.
METCALF, CHARLES W., ... Memphis.
MOUNTCASTLE, R. E. L., ... Knoxville.
PILCHER, JAMES S., ... Nashville.
SANFORD, EDWARD T., ... Knoxville.
SWANEY, W. B., ... Chattanooga.
TILLMAN, A. M., ... Nashville.
VAN DEVENTER, HORACE, ... Knoxville.
VERTREES, JOHN J., ... Nashville.
YOUNG, DAVID K., ... Clinton.

TEXAS.

ALEXANDER, L. C., ... Waco.
AUTRY, JAMES L., ... Beaumont.
BURGES, ALFRED RUST, ... San Angelo.
BURGES, WILLIAM H., ... El Paso.
CARTER, H. C., ... San Antonio.
COKE, HENRY C., ... Dallas.
DILLARD, F. C., ... Sherman.
EDWARDS, PEYTON F., ... El Paso.
GAINES, R. R., ... Austin.

TEXAS.—Continued.

KEMP, WYNDHAM, ... El Paso.
LINDSLEY, PHILIP, ... Dallas.
MILLER, CLARENCE H., ... Austin.
MILLER, T. S., ... Dallas.
OGDEN, CHARLES W., ... San Antonio.
PHILLIPS, NELSON, ... Dallas.
SAMUELS, SIDNEY L., ... Fort Worth.
SANER, ROBERT E. LEE, ... Dallas.
SEARCY, WILLIAM W., ... Brenham.
SPOONTS, M. A., ... Fort Worth.
STREET, ROBERT G., ... Galveston.
TERRY, J. W., ... Galveston.
WALTHALL, A. M., ... El Paso.
WILLIAMS, HORACE B., ... Dallas.

UTAH.

CRITCHLOW, EDWARD B., ... Salt Lake City.
KINNEY, CLESSON S., ... Salt Lake City.
VARIAN, CHARLES S., ... Salt Lake City.
WILLIAMS, P. L., ... Salt Lake City.

VERMONT.

BARBER, O. M., ... Bennington.
MCCULLOUGH, JOHN G., ... No. Bennington.
TAFT, ELIHU B., ... Burlington.

VIRGINIA.

ADAMS, RICHARD H. T., JR., ... Lynchburg.
ATKINSON, HENRY A., ... Richmond.
BARBOUR, JOHN S., ... Culpepper.
BRAXTON, A. C., ... Staunton.
BRYAN, GEORGE, ... Richmond.
BULLITT, JOSHUA F., ... Big Stone Gap.
CABELL, JAMES ALSTON, ... Richmond.
CATON, JAMES R., ... Alexandria.
CHRISTIAN, FRANK P., ... Lynchburg.
CHRISTIAN, FRANK W., ... Richmond.
COCKE, LUCIAN H., ... Roanoke.
COKE, JOHN A., ... Richmond.
CORBITT, JAMES H., ... Suffolk.
CUMMING, S. GORDON, ... Hampton.
DAVIS, CHARLES HALL, ... Petersburg.

VIRGINIA.—Continued.

DAVIS, RICHARD B.,	Petersburg.
DRAPER, JOHN S., JR.,	Pulaski.
FLOOD, H. D.,	W. Appomattox.
FULKERSON, SAMUEL V.,	Bristol.
GARNETT, THEODORE S.,	Norfolk.
GILLIAM, MARSHALL M.,	Richmond.
GILMORE, JAMES H.,	Marion.
GRAVES, CHARLES A.,	Charlottesville.
GREGORY, ROGER,	Richmond.
GRIFFIN, S.,	Bedford City.
GRINNAN, DANIEL,	Richmond.
HAMILTON, ALEXANDER,	Petersburg.
HARRIS, JOHN T.,	Harrisonburg.
HARRISON, RANDOLPH,	Lynchburg.
HATTON, GOODRICH,	Portsmouth.
HEATH, JAMES ELLIOTT,	Norfolk.
HENSON, W. J.,	Pearisburg.
HUGHES, ROBERT M.,	Norfolk.
HUNTON, EPPA, JR.,	Richmond.
KILBY, WILBUR J.,	Suffolk.
LEWIS, JOHN H.,	Lynchburg.
LEWIS, LUNSFORD L.,	Richmond.
LONG, ARMISTEAD R.,	Lynchburg.
MASSIE, EUGENE C.,	Richmond.
MEREDITH, CHARLES V.,	Richmond.
MINOR, RALEIGH C.,	Charlottesville.
MUNFORD, BEVERLEY B.,	Richmond.
MCALLISTER, J. T.,	Hot Springs.
MCHUGH, CHARLES A.	Roanoke.
PAGE, ROSEWELL,	Richmond.
PATTESON, S. S. P.,	Richmond.
PHLEGAR, ARCHER A.,	Christiansburg.
PICKRELL, JOHN,	Richmond.
PRENTIS, ROBERT R.,	Suffolk.
ROBERTSON, WILLIAM GORDON,	Roanoke.
ROGERS, HAMILTON,	Richmond.
ROYALL, WILLIAM L.,	Richmond.
SCOTT, R. CARTER,	Richmond.
SEATON, EMMETT,	Richmond.
SIPE, GEORGE E.,	Harrisonburg.
SMITH, WILLIS B.,	Richmond.
STERN, JO. LANE,	Richmond.
TENNANT, W. B.,	Richmond.
THOMASON, E. B.,	Richmond.

VIRGINIA.—Continued.

TOWNES, WILLIAM A.,	Richmond.
TUCKER, HENRY ST. GEORGE,	Lexington.
WATTS, LEGH R.,	Portsmouth.
WICKHAM, HENRY T.,	Richmond.
WILLARD, JOSEPH E.,	Fairfax.
WILLIAMS, CHARLES U.,	Richmond.
WILLIAMS, E. RANDOLPH,	Richmond.
WYSOR, JOSEPH C.,	Pulaski.
YARRELL, LEONIDAS D.,	Emporia.

WASHINGTON.

BROWN, MELVILLE C.,	Seattle.
BUNN, JOHN MARSHALL,	Spokane.
DEWART, FREDERICK W.,	Spokane.
EVERETTE, WILLIS E.,	Tacoma.
FORSTER, GEORGE M.,	Spokane.
HUGHES, E. C.,	Seattle.
PRICE, JOHN G.,	Seattle.
ROBB, BAMFORD A.,	Seattle.
SHEPARD, CHARLES E.,	Seattle.
TURNER, GEORGE,	Spokane.
WAKEFIELD, WILLIAM J. C.,	Spokane.

WEST VIRGINIA.

AMBLER, B. MASON,	Parkersburg.
ARCHER, V. B.,	Parkersburg.
BRANNON, W. W.,	Weston.
BRATTON, WILLIAM A.,	Marlinton.
COOPER, JOHN T.,	Parkersburg.
DAVIS, DABNEY C. T., JR.,	Charleston.
HIGGINBOTHAM, C. C.,	Buckhannon.
HUBBARD, WILLIAM P.,	Wheeling.
MERRICK, CHARLES D.,	Parkersburg.
MILLER, WILLIAM N.,	Parkersburg.
MOLLOHAN, WESLEY,	Charleston.
PRICE, GEORGE E.,	Charleston.
SMITH, EDWARD GRANDISON,	Clarksburg.
SMITH, HARVEY F.,	Clarksburg.
TURNER, SMITH D.,	Parkersburg.
VANDERVORT, JAMES W.,	Parkersburg.
VAN WINKLE, W. W.,	Parkersburg.
WHITE, ROBERT,	Wheeling.
WOLFE, WILLIAM HENRY, JR.,	Parkersburg.

WISCONSIN.

BARBER, CHARLES,	Oshkosh.
BARTLETT, WILLIAM PITT,	Eau Claire.
BASHFORD, R. M.,	Madison.
BURKE, JOHN F.,	Milwaukee.
CARY, ALFRED L.,	Milwaukee.
FAIRCHILD, H. O.,	Green Bay.
FLANDERS, JAMES G.,	Milwaukee.
FROST, EDWARD W.,	Milwaukee.
GILMORE, EUGENE ALLEN,	Madison.
GILSON, NORMAN S.,	Fond du Lac.
GRACE, H. H.,	West Superior.
GREENE, GEORGE G.,	Green Bay.
HUNTER, CHARLES F.,	Milwaukee.
JEFFRIS, MALCOLM G.,	Janesville.
JENKINS, JAMES G.,	Milwaukee.
JONES, BURR W.,	Madison.
KERWIN, J. C.,	Madison.
LUDWIG, JOHN C.,	Milwaukee.
MILLER, BENJAMIN K.,	Milwaukee.
MILLER, GEORGE P.,	Milwaukee.
MORRIS, HOWARD,	Milwaukee.
OGDEN, LEWIS M.,	Milwaukee.
ORTON, PHILO A.,	Darlington.
PERELES, JAMES M.,	Milwaukee.
PERELES, THOMAS JEFFERSON,	Milwaukee.
QUARLES, CHARLES,	Milwaukee.
QUARLES, JOSEPH V. (Washington, D. C.),	Milwaukee.
RICHARDS, HARRY S.,	Madison.
SEAMAN, WILLIAM H.,	Sheboygan.
SIEBECKER, ROBERT G.,	Madison.
SMITH, HOWARD L.,	Madison.
SPOONER, JOHN C.,	Madison.
STAFFORD, W. H.,	Chippewa Falls.
STARK, JOSHUA,	Milwaukee.
TURNER, W. J.,	Milwaukee.
VAN DYKE, GEORGE D.,	Milwaukee.
VAN DYKE, WILLIAM D.,	Milwaukee.
VILAS, EDWARD P.,	Milwaukee.
WIGMAN, J. H. M.,	Green Bay.
WINKLER, FREDERICK C.,	Milwaukee.

WYOMING.

Burdick, Charles W., ... Cheyenne.
Burke, Timothy F., ... Cheyenne.
Clark, Gibson, ... Cheyenne.
Corn, Samuel T., ... Cheyenne.
Corthell, Nellie E., ... Laramie.
Lacey, John W., ... Cheyenne.
Potter, Charles N., ... Cheyenne.
Van Devanter, Willis, ... Cheyenne.
Van Orsdel, Josiah A., ... Cheyenne.

RECAPITULATION.

STATES.	NO. OF MEMBERS.
Alabama,	16
Alaska Territory,	2
Arizona Territory,	4
Arkansas,	33
California,	25
Colorado,	97
Connecticut,	43
Delaware,	11
District of Columbia,	75
Florida,	19
Georgia,	47
Hawaii Territory,	4
Idaho,	3
Illinois,	121
Indian Territory,	10
Indiana,	78
Iowa,	48
Kansas,	20
Kentucky,	38
Louisiana,	29
Maine,	21
Maryland,	74
Massachusetts,	138
Michigan,	59
Minnesota,	31
Mississippi,	6
Missouri,	114
Montana,	3
Nebraska,	50
Nevada,	2
New Hampshire,	15
New Jersey,	39
New Mexico Territory,	1
New York,	207
North Carolina,	12
North Dakota,	5
Ohio,	80
Oklahoma Territory,	24
Oregon,	7
Pennsylvania,	175
Philippine Islands,	1
Rhode Island,	44
South Carolina,	11
South Dakota,	7
Tennessee,	23
Texas,	23
Utah,	4
Vermont,	3
Virginia,	68
Washington,	11
West Virginia,	19
Wisconsin,	40
Wyoming,	9
Total,	2,049

APPENDIX.

ADDRESS OF THE PRESIDENT.

HENRY ST. GEORGE TUCKER,
OF LEXINGTON, VIRGINIA.

Gentlemen of the American Bar Association:

Another year is added to the record of the life of our Association, and we are gathered once more in our harvest home to recount the struggles of the past year, to tell the stories of many hard-fought battles mingled with the joys of victory or the pangs of defeat.

Two years ago we met beneath the shadow of the blue mountains of the Old Dominion, where you left a lasting impression for good and where you are today freshly remembered by the Virginia Bar, who await your coming again with eager expectancy and confident hope. Last year, abandoning the contracted domain of the East, we crossed the Father of Waters and pitched our tent amid the glories of the World's Exposition, where we drank deep from the sources of knowledge that science, art, philosophy and ample means had provided for the instruction of the world. The hospitality of the Bar and of the people of the great city in which we were located during our stay in that center of Western energy, I feel justified in saying, will always be remembered by us as among the most pleasing memories of our lives.

Today I count it fortunate that the authorities of the Association have deemed it proper, after our visits to the Virginia mountains and the broad prairies of the West, to recall our wandering steps and bring us back to one of the earliest nurseries of civilization on the continent, to the rock-bound coast of New England, "by the deep sea and music in its roar." Not only may we here breathe in the life-giving atmosphere of this section, but we cannot fail to draw inspiration from the history of a people who have done so much in the past

to encourage and strengthen the power of law and scatter the seeds of American civilization throughout the length and breadth of our land. The history of the American Bar would indeed be an imperfect one which failed to incorporate within its pages the story of New England jurists; and while in these states of New England there may be names which tower like mountain peaks above all others, the gallant little state within whose borders we are assembled this day, and whose hospitality we enjoy, bears a proud record in the bibliography of American jurists.

With all the joys of hope and anticipation that our annual meeting brings, we cannot escape a feeling of depression at the beginning of each meeting as we note the vacant chairs and recall the faces of those we ne'er shall look upon again. The past year has been no exception in the attacks upon our ranks. The committee, whose duty it is to embalm the names of our deceased members in the sentiments of our affection, will doubtless discharge that duty in a way appropriate to the character of those who have departed this life during the past year. I trust it may not be considered invidious in me, in response to the promptings of my heart, to pause for a moment to say a word of one to whom I was personally warmly attached and one whom the members of the Bar of my own state at all times delighted to honor. I refer to the late James C. Carter of New York.

In the death of James C. Carter this Association has lost one of its most distinguished members and greatest lawyers. With an extended acquaintance with the lawyers of America, I dare venture to assert in this presence that our profession, in the time during which he lived, has produced no man who has excelled him in the qualities which go to make the well-rounded, symmetrical, great lawyer.

He entered the profession as a graduate of the Harvard Law School, and on this foundation he builded the magnificent superstructure of his professional fame; with his mind enriched by classical as well as modern literature, with the clearness of

statement of John G. Carlisle and the ornateness of Choate, he presented the rarest combination I have ever heard before the Supreme Court of the United States. To his great powers of intellect were added a nobility of character that was far above the clouds in public virtue and in private thinking. His sympathies were as wide as the continent, his patriotism broad and charitable; as a citizen he was first in the great metropolis which his life honored. Sanguine, buoyant and brave, he was yet tender, sympathetic and affectionate. His strength commanded admiration, while his heart compelled affection. He was frank in criticism, just and discerning in judgment, modest without humility, gentle without meekness, forceful without aggressiveness, and always happy in doing good. Past the allotted time of man to live, he was gathered like a ripe sheaf into the garner of the Master e'en then far too soon for those who were dependent upon his strength of character and his inspiring example. His life will ever teach us the beauty of character, the leadership of virtue, the dignity of labor and the wisdom of devotion.

"*Respicere exemplar vitæ morumque jubebo.*"

Of the states and territories, whose legislation, under the Constitution of our Association, your President is required to review, the following have held no sessions of their legislatures during the past year: Iowa, Louisiana, Maryland, Mississippi, Ohio and Virginia. Kentucky held an extra session merely for the purpose of determining the location of the new capitol building, and this question has been determined by the location of the new building on the opposite side of the river from its present location at Frankfort, and not upon the old capitol grounds.

Of the states that have held sessions of their legislatures, the sessions acts of some have failed to reach me; among them Arkansas, Florida, Georgia and South Carolina, and many of the others have been delayed to a late hour owing to the recent adjournments of the legislatures in the several states.

Arkansas has failed to make report because the printing establishment which had charge of the publication of the acts, and which was already preparing to issue them, was burned on the 23d of July last and all the material for their publication with it, so that we cannot hope for a publication of these acts for several months.

I beg to return my thanks to the members of the General Council who have kindly aided me, not only in sending the acts of their respective states, but, in lightening my labors, by sending me, in many instances, reports of the most notable enactments in their state.

To our faithful secretary and efficient treasurer my obligations are beyond expression for their many acts of courtesy and for their unflagging interest in all that pertains to the welfare and success of the Association.

Following the custom which has been adopted by some of my predecessors, I address myself to the constitutional duty of communicating to you, under appropriate headings, "the most noteworthy changes in statute law on points of general interest" in the states and territories and the Congress of the United States.

Administration of Justice.

Tennessee by a recent act requires the Appellate Court to consider exceptions to the ruling of a chancellor on the admissibility of evidence without a formal bill of exceptions.

Nebraska passed an act creating a Supreme Court committee of six members, who are really assistants to the Supreme Court judges, to hear arguments and write opinions. The court adopts their opinions when it agrees with them and rejects them when there is a disagreement.

The same state has abolished writs of error and assignment of errors in all cases except criminal cases, and the jurisdiction of the Supreme Court attaches on the filing of a transcript of the record within six months from the rendition of the final decree sought to be reviewed.

South Dakota removes the liability of a bank on a forged check, unless, within three months after the return to the depositor of the check, such depositor shall notify the bank that the same is forged.

Maine has passed an act, which has been followed substantially in Illinois, Pennsylvania and other states, providing that "where the sale in bulk of a stock of merchandise is made, it shall be void as to the creditors of the vendor unless the vendor and vendee, at least five days before the sale, make a full inventory of the property, which is to be preserved by the vendee for thirty days after the sale for inspection by creditors, and unless the vendee receive from the vendor a written list of names and addresses of all creditors, under oath, purporting to be a full and complete list of all creditors, and unless the vendee, at least five days before taking possession or paying for the stock, notify personally or by registered mail every creditor whose name and address is on the list given him by the vendor.

The Illinois and Pennsylvania acts vary in some particulars from this, but all are intended to minimize fraud in such sales and to make more certain and definite the paths which lead to that haven of refuge, the *bona fide* purchaser for value without notice.

Pennsylvania provides by an act that "whenever any foreign corporation not having the right to hold and own real estate in that commonwealth has made a conveyance of real estate to a citizen of the United States or any corporation chartered under the laws of Pennsylvania and authorized to hold real estate, such citizen or corporation may hold and convey such title and estate indefeasibly as to any right of escheat in the commonwealth."

Missouri, Michigan, Nebraska, Wyoming and Kansas adopt the negotiable instrument law.

By a law of West Virginia it is provided that "every city, town or village which grants a license or privilege to any person or corporation to furnish to such county, city, town or vil-

lage water, gas or electricity or to construct a telephone system, is authorized to invoke the aid of the Circuit Court by mandamus to compel such person or corporation or individual to exercise such rights and privileges in accordance with the terms and conditions prescribed, and that such right shall not be construed to deprive the county or city or an individual of the right to recover damages for their failure so to do."

Vermont follows the lead of many of the states in providing that husband and wife shall be competent witnesses for and against each other in all civil and criminal cases, with the usual exceptions.

The order of administration of assets of a decedent in the same state are determined in the following order:

(1) Funeral expenses;
(2) Expense of tombstone not to exceed twenty-five dollars in value;
(3) Expenses of the last sickness;
(4) Taxes;
(5) Debts due the state;
(6) Debts due the United States;
(7) Debts due other creditors.

Shocking, indeed, to delicate sensibilities is the recognition by this conservative New England state of the priority of the state over that of the United States in the measure of the obligation of its citizen.

Illinois has passed a stringent act for the suppression of mob violence, first defining what a mob is, then providing that any persons composing a mob who shall by violence inflict material damage to the property or serious injury to the person of any other persons upon the pretense of exercising correctional powers over such person or persons, shall be deemed guilty of a felony, and such injured person shall have a right of action against the county or city in which such injury is inflicted, and that the surviving wife or heirs of any person who has lost his life by lynching at the hands of a mob shall have a right

of action for damages against the county or city in which said loss of life occurred in a sum not to exceed $5000.

The most stringent provision of the act is that which makes the taking from the hands of a sheriff, or his deputy, by a mob of a person who is lynched, *prima facie* evidence of failure on the part of such sheriff to do his duty, and the governor shall at once declare his office vacant and appoint a successor, with a proviso that, within ten days after such lynching, the sheriff may be reinstated upon filing a petition with the governor, stating and showing by proof that he did all in his power to protect the life of his prisoner.

Illinois makes a departure from the ordinary rule in that it provides that the salary of an officer employed by any county, city, town or village shall be liable to process of garnishment or attachment.

A recent decision of the Supreme Court has invited the passage in New York of the following:

"Whenever any person or persons, co-partnership, corporation or association shall give, bequeath or assign to the State of New York any bonds, warrants, choses in action or other obligations of any other state, the governor is hereby authorized, in his discretion, to receive and accept the same for the benefit of the state, and the right and title thereto and therein shall thereupon pass to and vest in the state, and the same, and all the proceeds thereof, when collected, shall be held by the comptroller in a special account" and used for educational purposes, and the attorney-general is authorized to take the necessary proceedings in any court of competent jurisdiction, state or federal, looking to the enforcement of the same.

Whether the decision of New York *vs.* Louisiana[1] is to be adhered to or not can only be determined by the final action of the Supreme Court.

New York defines by law what shall be considered as contempt of either house in the legislature:

"Neglect to attend or be examined as a witness before the house, or a committee thereof, or, upon reasonable notice, to

[1] 108 U. S. 76.

produce any material books, papers or documents, when duly required to give testimony, or to produce such books, papers or documents in a legislative proceeding, inquiry or investigation."

New York makes a judgment which is docketed in a county clerk's office binding, and a charge for ten years after filing the judgment roll, and no longer, upon real property and chattels real in that county which the judgment debtor has at the time of so docketing, or which he acquires at any time afterwards and within the ten years, differing from the law in many of the states, which makes the judgment a lien from the time of its rendition, but only a lien as to subsequent purchasers for value without notice from the time of its recordation.

In New York it is provided that when, in the determination of the court, a more advantageous sale can be made of real estate by including the right of dower in the sale, such sale may be had—a law not in consonance with the general rule of allowing the widow great latitude in the selection of dower.

Rhode Island, in an act of some four hundred pages of printed matter, known as the "Court and Practice Act," has made great changes in her judicial system, and the Supreme Court, as constituted under this act, becomes for the first time a real court of appeals, both at law and in equity. A new court is also established known as the Superior Court, which presides over all jury trials, and whose jurisdiction, as a court of first instance, embraces also equity as well as common law cases.

The slow growth of equity jurisprudence in the State of Rhode Island is worthy of passing comment. The exercise by the General Assembly of Rhode Island of judicial powers up to comparatively a recent date is most interesting in a country that boasts so much of the separation of the three great powers of government. Equity powers were exercised by the General Assembly of Rhode Island down to the adoption of the constitution of 1842, and the first grant of equity powers by the General Assembly to the judiciary was in 1667,

giving the right to the courts in a case where any penalty or equity of redemption was sued for to follow the rules of equity. In 1728 the courts were empowered to entertain a bill in equity to redeem a mortgage, and in 1822 the court was allowed to entertain a bill to foreclose a mortgage. In 1829 the court was given jurisdiction of cases relating to trusts for the benefit of creditors, and in 1836 to cases relating to trusts generally, to partnerships and proceedings against banks for forfeiture of their charters, and not until 1841 was the court given full equity powers in cases of fraud. It is interesting to note the struggles of this little commonwealth to engraft a system of equity upon its jurisprudence as separate and distinct from the common law, and that this should have been finally accomplished less than forty years before the mother country in 1873, after a struggle of centuries of equity principles against the common law had united the two under the Judicature Act of that year; while in England, from which so much of our jurisprudence is derived, in the triumph of equity they fully realize that "the stone, which the builders rejected, the same has become the head of the corner."

Indiana provides that a person owning land and having an insane wife or husband may be granted by the Court of Probate power to convey the same, without the joinder of such insane wife or husband, upon giving bond to keep the insane party from becoming a county charge, and to pay, upon the restoration to sanity to such wife or husband, one-third of the purchase money.

Minnesota extends the Torrens system of land registry to counties containing 75,000 population. The system has been in vogue in that state for four years in counties containing a population of more than 200,000.

In Missouri, on cross-examination, a party is not confined to the scope of the evidence given by the witness, but he may be cross-examined on the entire case.

California and Connecticut provide that suits for damages may be brought in cases of discrimination on account of

alienage, race or color in places of public amusement, accommodation or transportation.

In Connecticut, on the application of either party to a cause, the court may order any issue of fact which may have been joined in an action demanding equitable relief to be tried by a jury.

The same state provides that choses in action shall not be included in inventories of estates of deceased persons and insolvent debtors.

Connecticut provides that no length of time in the possession of land belonging to a railroad shall create or continue any right in such land, and that no length of time of possession or of use of land belonging to another by a railroad company shall constitute a right to it.

Texas confers upon the Supreme Court of that state, or any one of the justices thereof, power, either in term time or in vacation, to issue writs of *habeas corpus* in all cases where a person is restrained of his liberty by virtue of any writ, process or commitment issued by any court on account of any violation of any writ or decree theretofore made by such court.

The registration laws of the State of Texas are enlarged by providing for a *lis pendens* record for the protection of purchasers of property *pendente lite.*

Kansas provides that if an execution shall not be sued out within five years from the date of any judgment that now is or may hereafter be rendered by any court of record in that state, such judgment shall become dormant and shall cease to operate as a lien on the estate of the judgment debtor.

The same state also provides that an action may be brought in the State of Kansas by any person, or persons, where the same arose under or by virtue of the laws of any other state or territory, provided one or more of the parties entitled to the proceeds of such action at the time of beginning such action are residents of the State of Kansas.

Michigan has passed an important act regulating the employment of expert witnesses in which it is provided that

"no such witness shall receive as compensation in any case for his services a sum in excess of the ordinary witness fees provided by law, unless the court before whom such witness is to appear or has appeared awards a larger sum; and it is further provided that no more than three experts shall be allowed to testify on either side as to the same issue in any given case, except in criminal prosecutions for homicide, except by permission of the court, and in criminal cases for homicide where the issues involve expert knowledge or opinion the court shall appoint one or more suitable and disinterested persons, not exceeding three, to investigate such issues and testify at the trial; and the compensation of such person or persons shall be *fixed by the court* and *paid by the county* where the indictment was found, and the fact that such witness or witnesses have been so appointed shall be made known to the jury, but this provision shall not preclude either prosecution or defense from using other expert witnesses at the trial, and the act shall not be applicable to witnesses testifying to the established facts or deductions of science, nor to any other specifications, but only to witnesses testifying as to matters of opinion.

In North Carolina it is enacted that an executor of an executor shall not be entitled to qualify as executor of the first testator.

ALIENS.

The State of Indiana provides by law that "any alien hereafter acquiring lands in this state in excess of three hundred and twenty acres shall, within five years after acquiring the same, convey such excess, otherwise such excess shall escheat to the state unless the owner dies within said five years.

AUTOMOBILES.

The favor with which this new method of locomotion has been received in the country, marked by a like decline in the bicycle, with its capacity for speed, its occupation of the roadways, its weight and construction as well as its formidable appear-

ance on the public highways and its danger to vehicles drawn by horses, has caused legislation in many of the states, looking to a regulation of the speed in towns and cities as well as in the country, and to a strict liability for a violation of such provisions.

New Hampshire, Connecticut, Massachusetts, Delaware, Indiana, Arizona, Tennessee, Wisconsin, Maine, Pennsylvania, Vermont, North Dakota, Montana, Washington and North Carolina have all passed stringent laws; some of them requiring a license, the registration of the machine by the owner, and strict liability for a violation of said regulations.

In towns and cities the average rate of speed under these laws is about eight miles an hour and in the country from fifteen to twenty-five miles an hour.

In some of these acts a machine using gasoline is required to use the muffler within the limits of every city or village; they are required to be provided with good and sufficient brakes, with a bell and horn which must be rung and blown at certain times to avoid danger.

In the State of Washington the driver of such machine is required to turn to the right in meeting vehicles moving in an opposite direction and turn to the right in passing vehicles moving in the same direction; while in other states, where the machine is passing a vehicle going in the same direction, it is required to turn to the left.

Constitutional Amendments.

Delaware has passed an act proposing an amendment to her constitution abolishing the one dollar registration fee. This requires the concurrence of the legislature two years hence.

Montana passed an act providing for an amendment to her constitution, to be voted upon by the people, putting into effect the initiative and referendum.

Idaho proposes a constitutional amendment, which provides for the exemption from taxation of lines of railroads hereafter to be constructed for a period not exceeding ten years.

An act was passed in Rhode Island which submits to the electors the question of amending the constitution of that state so that the House of Representatives shall consist of one hundred members, but providing that no town shall have more than one-fourth of the whole number of members, the effect of which would be to increase the representation of the city of Providence from twelve to twenty-five, this city containing nearly one-half of the population of the state. Under the present system, in the Senate, consisting of thirty-eight members, Providence, with nearly half the population, now has one senator. As has been recently shown, twenty small towns in the state, containing about eight per cent. of the population, are able to control the legislation of the state against ninety-two per cent. of the population. If the spirit of independence that characterized Roger Williams, the founder of the state, should ever give place to indifference in governmental affairs, a few men of political acumen could control the state; this will be more difficult to accomphish under the proposed amendment.

Missouri has adopted an amendment to her constitution prescribing that a jury for the trial of civil and criminal cases in courts not of record may consist of less than twelve men, and that a two-thirds majority of such number concurring may render a verdict in all civil cases; and in all civil cases in courts of record three-fourths of the jury concurring may render a verdict.

Missouri has also adopted an amendment to her constitution, providing that no person shall be prosecuted criminally for felony or misdemeanor otherwise than by indictment or information.

Crimes and Punishments.

Oregon leads off in commendable style, punishing wife beaters by stripes; while Delaware has abolished the pillory as an instrument of punishment.

Tennessee, South Dakota, North Dakota, Minnesota, North Carolina and others prohibit by law dealing in options and futures, and prohibit bucket shops, etc.

Pennsylvania declares it a felony to steal wire from an electrical company; while North Dakota declares that neglect of wife or of children is a felony.

In California it is declared to be a misdemeanor for enginemen, conductors, baggagemen, brakemen, switchmen, firemen, bridge-tenders or flagmen to become drunk while on duty, and if anyone be killed by reason of their drunkenness the crime is raised to felony.

California in the interest of the theater-goer makes it a misdemeanor for a person to sell any ticket to a theater or any place of amusement at a price in excess of that originally charged by the management.

To protect the discipline of the schools of the State of California, any person who insults or abuses any teacher in the public schools in the presence of a pupil is guilty of a misdemeanor; and in mercy to dumb animals "any person, officer or agent of a railroad company who, in transporting sheep or swine confines the same in cars for a longer period than thirty-six consecutive hours without unloading for rest, water or feeding, for a period of at least ten successive hours is guilty of a misdemeanor."

New York declares by law that the purchase of property by means of a false pretense is not criminal unless the false pretense relates to the purchaser's means or ability to pay and the pretense is made in writing and signed by the party to be charged.

Bank officers in New York are guilty of a misdemeanor in overdrawing their accounts, or asking for or receiving commissions or a gratuity from persons procuring loans or making overdrafts of their accounts.

Rhode Island has passed an act for the better prevention of dishonest practices of agents, employees and servants and those dealing with them. The act provides that no agent, employee,

servant or public official shall corruptly accept or obtain, etc., any gift or valuable consideration for doing, or forbearing to do, any act in relation to his employer's business, etc., the doing of which is made a misdemeanor, punishable by fine or imprisonment, with or without hard labor, not exceeding one year.

New York, Connecticut, Wisconsin and others have passed similar acts.

Massachusetts by law directs that if any person punished under the law of the state for failure to support his wife or minor children is placed on probation, he may, in the discretion of the court, be required from time to time to pay his wife for her support and the support of his minor children such reasonable sum as the court shall direct, and the decree of the court may from time to time be modified as the interest of justice may require.

Book-making and pool-selling are made a felony by statute in Missouri; and in the same state if any corporation fails to issue a letter, signed by the superintendent or manager, to any employee, upon his request, who has been discharged or voluntarily quit the service of the corporation, setting forth the nature and character of service rendered by such employee, and truly stating for what cause, if any, such employee has quit such service, he shall be punished by a fine of not less than $500 or imprisoned in jail not longer than one year, or both.

Texas punishes a person by confinement in the state penitentiary for not less than two nor more than four years who steals a sheep or a goat; and at the same time imposes a penalty, by way of a fine, of not less than $100 nor more than $200, or confinement in jail for not less than thirty days nor more than one year, or both, upon any person who shall carry on or about his person, saddle or in his saddle bags any pistol, dirk, dagger, sword, etc.

Texas makes it unlawful for any person to take, in any way, any fresh water fish for sale, provided that any one person shall be allowed to sell as much as fifty pounds of fish in one week, and no more than fifty pounds of fish in one week of

seven days; and also makes it unlawful for any person to kill more than ten squirrels in one day and unlawful for any person to sell more than five squirrels in any one week.

Kansas makes it a misdemeanor for the Board of Railroad Commissioners to procure transportation for any others than the board over the railroads of the state.

The same state provides that a county treasurer who shall wilfully fail to pay promptly a draft drawn by the state treasurer on presentation shall be deemed guilty of embezzlement.

Defacing the flag of the United States in Kansas is a misdemeanor.

DRAINAGE.

Kansas, by certain provisions of the act, constitutes the inhabitants within certain bounds as a public corporation to be incorporated as a drainage district, under the name of "The ——— Drainage District, ——— County, Kansas," and the territory described and the inhabitants residing therein, and their successors, shall constitute a body politic and corporate under said corporate name. Such district may include cities; shall have power to sue and be sued; to purchase and hold real estate; to exercise control over watercourses; to maintain levees, ditches, drains, or alter channels of watercourses and exercise the right of eminent domain; regulate the height of superstructures, the length of bridges, location of piers, and condemn, sell, regulate the grade of highways and railroads, or require railroads to elevate their tracks, with power to enjoin for any interference; to levy and collect taxes and to issue bonds to pay for improvements.

Similar acts have been passed by many of the Western and Southwestern states.

Texas, following the lead of many Western states, authorizes the creation of drainage districts, which may include one or more counties, with power to construct canals and waterways for the purpose of drainage, and with power to levy and collect taxes, to condemn property for such purposes under the

powers of eminent domain, to elect trustees for such drainage districts, and in general to do all things necessary to the establishment of a good and sufficient drainage system.

Indiana and Missouri have passed similar acts.

EDUCATION.

Perhaps no subject within the bounds of legislation for the states has been more fruitful in results than that of education, and it is interesting to note how the states vie with each other in putting into effect new and approved methods of education in every direction.

Delaware has passed an act abolishing corporal punishment in the public schools of that state.

South Dakota provides for instruction in the public schools of physiology and hygiene to be taught as thoroughly as arithmetic and geography are taught in said schools, and such instruction is to be given orally to pupils who cannot read and by the use of text books to those who can, and the text books used must give about one-fourth of its space to the nature and effects of alcoholic drinks and narcotics, while the books used must contain at least twenty pages of matter relating to this subject, and must not be embraced in a separate chapter at the end of the book.

We may confidently look for a genuine revival of abstinence in the use of alcoholic drinks in a state where the instruction on this subject is to be as exact as arithmetic and as boundless as geography itself.

In Pennsylvania all school buildings are required to be built upon a uniform plan, and each schoolhouse must contain in each class room at least fifteen square feet of floor space and not less than two hundred cubic feet of air space per pupil, and provides for an improved system of heating and ventilation, each class room to be supplied with fresh air of not less than thirty cubic feet per minute for each pupil and warmth to an average temperature of seventy degrees Fahrenheit, and teachers are licensed only upon presenting a certificate from a

physician, recognized by the board as competent, that the applicant is neither mentally nor physically disqualified by any chronic or physical defect from successfully performing the duties of teacher.

The same state provides by an act for instruction in the useful branches of mechanic arts, *athletics* and kindred subjects in schools of certain cities, boroughs and townships.

The consolidation of schools and the conveyance of children to the schools is provided by a law of Vermont with the additional provision that "the school directors, when in their judgment they deem it advisable, may pay a reasonable sum for the board of pupils when in attendance upon schools." A provision for suitable clothing for such pupils was omitted from the act.

Vermont also provides for a truant officer to carry out the provisions of the compulsory education act; and mindful of the omission above referred to, if the truant officer finds a child whose parent or guardian is unable to provide the child with suitable clothing for attending the schools it becomes the duty of the overseer of the poor to provide the necessary clothing for such child at the expense of the town.

Another act requires the superintendent and teacher of every school during the month of September to test the sight and hearing of all pupils and to keep a record of such examination and to notify the parent or guardian of any defect in hearing or any disease of eye or ear, and report such examination to the superintendent of education.

I have omitted the educational bills of many of the states because they are generally along well-established lines.

New York has passed a law that probably has no parallel in declaring that the "Board of Education of a school district in the town of Dannemora, in the county of Clinton, shall assess the property owned by the state within that district, and that the comptroller shall thereafter pay to the school authorities the amount of taxes levied upon the land of the state for

school purposes out of any moneys hereafter appropriated for local improvements on property owned by the state."

The Court of Appeals of New York is allowed to admit to the Bar without examination, upon the production of a diploma, graduates of the Albany Law School, the Law School of the City of New York, the Law School of Columbia College, the Law School of the University of Buffalo or the New York Law School or of the College of Law, Cornell University, Syracuse University or the Brooklyn Law School of St. Lawrence University.

Massachusetts appropriates $48,500 for paying the tuition of children in high schools outside of the towns in which they reside, and for providing transportation to and from school for such children of school age who may be living upon islands in the commonwealth which are not provided with schools.

Indiana provides that one acre of land, with improvements and all personal property owned by a Greek letter fraternity connected with any institution of learning shall be exempted from taxation.

Missouri has passed a compulsory educational bill. Among the exceptions to the requirements of the act are persons having charge and control of a child who are not able from extreme destitution to provide proper clothing for said child, or where the labor of said child is absolutely necessary for the support of the family. The penalty for disregarding this act by the parent, guardian or person in charge of the child is a fine of not less than ten nor more than twenty-five dollars, or imprisonment for not less than two nor more than ten days, or both.

The State Board of Education in Connecticut is allowed to establish libraries in connection with the public schools in county temporary homes at an expense not to exceed ten dollars for each school.

In Connecticut the State Board of Education is authorized to compel the parent or guardian of a child under fourteen and not over sixteen years of age, who have not sufficient

schooling, to send such child to school under penalty of five dollars for each week's failure to comply with the order of the board.

The graduates in law of the University of Texas are admitted to the Bar without further examination.

Kansas prescribed for its high schools three courses of instruction, each requiring four years study for completion, to wit: a general course for those who cannot continue school life longer; a normal course for the preparation of teachers, and a collegiate course for preparation for college.

Wisconsin provides that when the text books for the public schools shall have been selected and adopted such books shall not be changed for a period of three years.

Perhaps the acts of assembly in no state in the union contain as much legislation on the subject of education as those of the State of North Carolina. This is largely due to the efforts of the Southern Educational Board, in which the State of North Carolina has exhibited remarkable interest; and I think I am safe in saying that North Carolina is the first cotton state which has advanced to the position of trying compulsory education. The city of Asheville and Raleigh Township provide for the compulsory attendance upon schools; while Yadkin and Macon Counties, and probably others, provide for submitting this question to the vote of the people; and attendance upon schools is made compulsory upon the Indians of North Carolina.

Elections and the Elective Franchise.

Great progress is shown during the past year in the ratification by the people of the several states of primary election laws.

California, Arizona, Oregon, South Dakota, Wyoming, Vermont, North Dakota, Oklahoma and Colorado have adopted primary election laws, regulating the nomination of candidates for office by the different political parties.

New Mexico provides by law that whenever any political convention held in that territory nominates a candidate for

office that the clerk of the probate court of the county, on the certification of such nomination by the presiding officer of the convention, shall print that name as the candidate of the party to which he belongs, and no other political convention can print, or cause to be printed, any ballot having thereon the name of the candidate nominated by such convention.

The acts of the State of Illinois, from pages 202 to 260, are taken up with laws in relation to elections, appointment of election judges, regulation of the canvass of ballots, cumulative voting for representatives, filing nominating papers, nomination of candidates by petition, and an elaborate primary election law guarding elections against fraud and declaring the violations of the act to be misdemeanors and felonies.

In West Virginia, for the first time, provision has been made for the registration of the voters of the state; a most welcome provision to those who desire the purification of the ballot in the mining sections of that state.

In Oregon an elaborate primary election scheme is adopted, covering thirty-three pages of the acts, the preamble to which is a bill of rights for all political parties and begins in these words:

"Under our form of government, political parties are useful at the present time. . . . The government of our state by its electors and the government by a political party by its members are rightfully based on the same general principles. . . . It is as great a wrong to the people as well as to the members of a political party for one who is known not to be one of its members to vote or take any part in any election or any proceeding of such political party as it is for one who is not a qualified and registered elector to vote in any state election or to take any part in the business of the state."

Then follows forty-six sections providing for safe and honest primary elections.

New Hampshire, following many of the other states, provides that all new applicants for the privilege of voting must be able to read from the constitution of the state and to write legibly before being entitled to register as legal voters.

Connecticut provides for the use of voting machines at all elections, provided the right of secret ballot is preserved, and has also passed an act to prevent corrupt practices at elections, caucuses and primaries.

Texas has passed a law to regulate elections, general, special and primary, as well as political conventions. It covers forty-five pages of the acts of assembly of the state, and is commended to the profession. Its provision for the security of the ballot and the prevention of fraud seems to be very complete. The residence of a single man in the act is fixed at where he usually sleeps at night; that of a married man where his wife resides.

Kansas has passed a general election law providing for an official ballot, prescribing the mode of voting, manner of counting, method of certification, mode of contest, etc.

Wisconsin prohibits the contribution of money by a corporation doing business in that state to any political party, committee or individual for any political purpose whatsoever, or for the purpose of influencing legislation of any kind. Any officer, agent or attorney of any corporation violating this act shall be punished by a fine of not less than $100 nor more than $5000, or by imprisonment in the penitentiary for not less than one nor more than five years, or by both, and the corporation whose officer may have been guilty of a violation of the act will be required to pay double the amount of any fine so imposed; if a domestic corporation commits the offense, it may be dissolved; and if a foreign corporation, its right to do business in the state may be declared forfeited; and a violation of this law by any officer of a corporation shall be *prima facie* evidence of such violation by such corporation.

Wisconsin provides that candidates for the various state offices and for the General Assembly, nominated by each political party at a primary, shall meet at the Capitol at twelve o'clock noon on the fourth Tuesday of September, after the date on which any primary is held preliminary to any general election, and they shall forthwith formulate the state platform

of their party, elect a State Central Committee, and the platform of each party shall be framed at such time, that it shall be made public not later than six o'clock in the afternoon of the following day.

Intoxicating Liquors.

Oregon provides by law that upon petition signed by not less than ten per cent. of the registered voters of a county, or subdivision of a county or precinct of a county, filed with the county clerk, the county court shall order an election to determine whether the sale of intoxicating liquors shall be prohibited in such county. If the said precinct or subdivision of the county shall vote for prohibition, no election shall be held for at least two years thereafter to test the question again.

An act passed by the State of Maine to provide for the better enforcement of laws against the manufacture and sale of intoxicating liquors leads us to fear that the ancient glory of our prohibition Israel has departed from her. Serious, indeed, must be the condition when the governor is authorized to appoint a commission of three persons, two from the dominant political party and one from that party casting the next highest vote at the last state election, at a salary of $1500 and actual expenses, clothed with all the common law and statutory powers of sheriffs for the enforcement of the law against the manufacture and sale of liquors. Not only that, but if the three should prove insufficient to cover so vast a domain they are authorized to appoint any number of deputies throughout the state which, in their judgment, may be necessary, with the same powers as their own.

Washington adds to the laws which have been passed in many of the states, providing that any husband, wife, child, parent, guardian, etc., who is injured in person or property by an intoxicated person shall have a right of action against any person who has caused the intoxication of such person by giving or selling him liquors.

New York provides that at each biennial town meeting in that state, provided the electors of the town to the number of ten per cent. of the votes cast at the next preceding general election shall so request, the following questions shall be voted upon:

(1) Shall any corporation or person be authorized to sell liquor to be drunk on the premises where sold in this town?

(2) Shall any corporation or person be authorized to sell liquor not to be drunk on the premises where sold in this town?

(3) Shall a corporation or person be authorized to sell liquor as a pharmacist on a physician's prescription in this town?

(4) Shall any corporation or person be authorized to sell liquor in connection with the business of keeping a hotel in this town if the majority of the votes cast on the first question are in the negative?

Indiana provides that if a majority of the voters of a township or ward remonstrate against granting a license for selling liquors, the applicant cannot receive a license for two years; and if the remonstrance is against all applicants, no license in the township or ward can be granted to any applicant for a period of two years.

Kansas provides that habitual drunkards and persons of unsound mind may have guardians appointed for them to take care of their persons and property.

New Hampshire withdraws from the prohibitory states on the liquor question and has adopted a license system under strict rules and regulations.

A person found in a licensed saloon in Connecticut during unlawful hours shall be fined not more than seven dollars. The exact process by which this offense is rated at seven dollars by the legislative mind will be an interesting study to this Association. This sum must be a special deterrant to offenders in Connecticut as it appears in other acts.

Texas provides that any person in that state who shall place any package, containing any intoxicating liquor, with an express company or railroad company for shipment to any point in a county, school district or subdivision of a county within the state where the sale of intoxicating liquors has been prohibited under the law of the state, shall place in a conspicuous place on such package the name of the consignor and consignee and the words 'intoxicating liquor' in plain letters; and where such package is transported from within or without the state to any such prohibited point within the state the express company or the railroad company, if the same be not called for or taken away by the consignee, and all charges paid, shall send the same back to the consignor within seven days of the time after its arrival at its place of destination, and the consignor shall be liable for the express or freight charges in returning the same.

A person who sells liquor within five miles of the line of any railroad grade, logging company, saw mill, sheep-shearing camp, irrigation ditch or canal in course of construction in Montana is punishable by imprisonment in the county jail not exceeding sixty days or by a fine not exceeding $100, or both.

Any person who sells or gives liquors in Montana to a person who is in the habit of getting drunk, knowing of such habit, is liable in damages to any person who is injured thereby in money, property or means of support, and in addition thereto is guilty of a misdemeanor.

LABOR.

South Dakota has passed an act to establish a twine and cordage plant, shirt and overall factory at the state penitentiary, and appropriated $76,000 to carry it into effect. Said plant is to be under the charge of the Board of Charities and Corrections, and provides for the sale of the product to farmers of the state who are actual consumers of it, to be sold for cash, upon such terms as shall be fixed by the authorities.

This bill is evidently aimed at the twine and cordage trust. Many of its provisions are similar to the act of the State of Kansas authorizing the establishment of a branch penitentiary and an oil refinery thereat to compete with the Standard Oil Company, which act has recently been declared unconstitutional by the Supreme Court of Kansas.

Tennessee has passed an act "to exempt thirty-six dollars of all monthly salaries or wages amounting to over forty dollars, and to make ten per cent. of all salaries and wages of forty dollars and less subject to garnishment."

Colorado, emerging from the throes of labor revolutions, passes a stringent law against boycotts and also decides that eight hours is sufficient length of time for a laborer to work in any one day.

Illinois, to protect laborers in the mines, provides that in all mines where gas is generated in dangerous quantities a number of men, designated as "shot firers," are to be employed at the expense of the company, whose duty it is to inspect the mines and do the firing of all blasts.

Massachusetts, by resolution of her legislature, expresses the opinion that it is desirable that the Constitution of the United States should be so amended as to place it clearly within the power of Congress to enact laws regulating the hours of labor in the several states according to some uniform system.

A corporation engaged in mining and manufacturing is prohibited in Missouri from working its employees in its mills or plants reducing, refining or smelting minerals or ores, etc., for a period of time longer than eight hours in a day of twenty-four hours. Montana has passed a similar act.

Texas provides that it shall be unlawful for any corporation to issue any tickets, check or writing obligatory to any servant or employee for labor performed redeemable in gold or merchandise.

Kansas provides that no corporation shall require or permit any conductor or engineer, or other employee, who has been at

work for sixteen consecutive hours to continue on duty, or to perform any work for such railroad until he has had at least eight hours rest.

The same state provides that wages earned out of the state and payable out of the state shall be exempt from garnishment or attachment, or where the cause of action arose out of the state, unless the defendant to the suit is personally served with process.

Marriage and Divorce.

A law which will be criticised as one of doubtful propriety was passed by Pennsylvania last winter permitting a divorce from husband or wife who is a hopeless lunatic. The act seeks to guard its questionable provision by providing that the hopeless lunacy must be proven beyond a reasonable doubt, except that ten years in an asylum shall be regarded as conclusive proof of hopeless insanity. The taking in Pennsylvania hereafter of husband and wife, for better or for worse, in sickness or in health, must be modified to the extent that if the sickness shall partake of the nature of lunacy in a chronic state there may be a dissolution of the bond. May not the man in Pennsylvania, now married to one who is a hopeless invalid from bodily disease, or perhaps maimed and disfigured for life by some unavoidable accident, see in this act ground for an appeal to the legislature to be released from his bonds also? Hopeless mental infirmity is in many respects no worse than hopeless physical infirmity; the exemption of the one must lead to the other.

This act finds its parallel in a law passed last winter by the legislature of Hawaii allowing a divorce to a man or woman whose wife or husband is afflicted with leprosy.

An act of Pennsylvania authorizes the governor to communicate with the governors of the several states, requesting them to co-operate in the assembling of a congress of delegates from the states, with the object of securing as nearly as possible a uniform statute on the matter of divorce throughout the United States.

This has been done by several of the other states.

California requires a man and woman to apply in person for a license, and requires the clerk to examine them under oath before granting the license and to reduce the examination to writing and preserve it.

The same state, as well as Rhode Island, makes guilty of a misdemeanor any person who advertises, publishes or distributes a circular and advertisement in the newspaper, or otherwise, offering to procure or obtain a divorce or to engage or act as attorney for a divorce.

Illinois provides that no person divorced because of adultery on his or her part shall be allowed to marry for a term of two years from the time the decree was granted.

Illinois also provides that male persons of the age of twenty-one years and female persons of the age of eighteen years and upward may contract marriage; that persons of either sex below the ages mentioned can only marry by the consent of his or her or their guardian. The same act provides that marriages are to be celebrated by regularly ordained ministers of the gospel, and that all common law marriages hereafter entered into are declared null and void.

Kansas has passed a law similar in many respects.

By a law of New York it is declared that in an action involving matrimony final judgment shall not be rendered in favor of the plaintiff upon the defendant's default in appearance or pleading, unless either the summons and a copy of the complaint were personally served upon the defendant, or the copy of the summons delivered to the defendant, or published pursuant to an order for that purpose, contains the following words, or words to the same effect, legibly printed or written on the face thereof, to wit: "action to annul a marriage," "action for a divorce" or "action for a separation."

Connecticut enacts that a man who neglects to support his wife and cohabits in that state or elsewhere with another woman shall be imprisoned not more than three years, while the unlawful neglect or refusal to support a wife and child

shall be deemed a felony, and the person convicted of it shall be imprisoned not more than one year, unless he shall show to the court that from physical disability or other good cause he was unable to furnish such support.

Kansas provides that no probate judge shall issue a license authorizing the marriage of any male person under twenty-one years of age, or female person under the age of eighteen years, except with the consent of his or her father or guardian.

In Wisconsin marriage within a year after divorce is prohibited.

Minnesota enlarges the contractual powers of married women, making them exclusive of the husband as to all property except the homestead; whereas, in that state, before the enactment of this statute, a married woman could make no contract concerning any of her real estate unless her husband joined with her.

MINORS.

California provides that no minor under the age of eighteen years shall be employed or labor in any manufacturing establishment more than nine hours in one day, and no minor under the age of sixteen shall be permitted to work in any mercantile institution or manufacturing establishment between ten o'clock in the evening and six in the morning, and no minor under fourteen years of age shall be employed in any like institution, or any restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages, provided that the judge of the juvenile court for the county or city may, in his discretion, permit a child of over twelve years of age to work; and no minor under sixteen years of age shall be permitted to work during the hours the public schools are in session, unless he is able to read and write English. Manufacturing establishments are required to keep a record of the names of minors under sixteen years of age who are employed by them.

The same act also provides that no corporation or person shall send any minor in their or his employ to the keeper of a

house of prostitution, variety theater or other place of questionable repute, under a penalty of being guilty of a misdemeanor.

Delaware, Pennsylvania, Missouri, Kansas, Vermont, New York and West Virginia have passed similar acts, though differing, of course, in many details.

Idaho provides that when any minor, between the ages of eight and eighteen, shall be found guilty in any court of record in that state of a felony, except murder or manslaughter, the judge may, in his discretion, instead of entering judgment direct that such boy or girl be sent to an industrial training school in accordance with the further provisions of the act, but no person of unsound intellect or afflicted with a contagious disease or epilepsy shall be eligible to such training school.

It is provided in Illinois that no boy under the age of ten years and no woman or girl of any age shall be permitted to do any manual labor in or about any mine.

The State of Washington provides for the control of delinquent children under the age of seventeen years. The definition of the word "delinquent" is interesting, and in effect it is stated to be "any child under the age of seventeen who violates any law of the state, any city or town ordinance, or who is incorrigible, or knowingly associates with thieves or disreputable persons, or is growing up in idleness, or who habitually begs, or who is found living in a house of ill fame, or who knowingly patronizes any policy shop or gambling house, or who visits any saloon or public pool room or bucket shop, or who wanders about the streets in the night time without being on a lawful business, or who habitually wanders about any railroad yards, or jumps or hooks on to any moving trains, or who habitually uses vile, obscene, vulgar, profane or indecent language." The act provides for probation officers, with the usual discretion, under the supervision of the court and granting probation to such child.

Oregon, Utah, Missouri, Tennessee and Kansas have passed laws creating juvenile courts for delinquents and incorrigibles, providing probation officers with the usual powers.

Tennessee forbids the sale or gift of tobacco in any form to a boy under seventeen years of age, and provides a penalty therefor.

Pennsylvania regards it a misdemeanor, punishable with a fine not exceeding $1000 or imprisonment not exceeding five years, or both, in the discretion of the court, to trade, buy, sell or deal in humanity by trading, bartering, buying, selling or dealing in infant children.

Pennsylvania forbids the furnishing of cigarettes or cigarette papers by gift, sale or otherwise to any person under twenty-one years of age, and imposes a fine of not less than $100 nor more than $300 upon any person offending against this provision.

Wisconsin, Indiana and Oklahoma have passed similar laws.

Corporations or persons in Pennsylvania are prohibited from employing any minor child under the age of sixteen inside any anthracite coal mine, or a minor child under the age of fourteen years in any anthracite coal breaker or around the outside workings of any anthracite coal mine. On conviction for a violation of this law the offending party must pay ten dollars a day for each and every day said minor child was employed. And no corporation shall employ any minor child in or about any anthracite coal mine or colliery without being furnished with a certificate by the borough or township common school superintendent, etc.

Missouri, Vermont, New York, West Virginia and Kansas have passed similar acts, though differing, of course, in details.

All persons, whether parent, guardian or otherwise, having charge of deaf, dumb and blind children in the State of Kansas are compelled, under a penalty, to send such children to some suitable school where the deaf, dumb and blind are taught and educated.

Indiana gives authority to the juvenile courts in cases of offenses not punishable with life imprisonment or death committed by boys under the age of sixteen and girls under the age of seventeen to sentence or discharge the prisoners or put

them in the custody of others, according to the discretion of the court.

Texas provides that no person under the age of nine years shall be convicted of any offense in that state, except the offense of perjury, and for that only, when it is proven that the accused had sufficient discretion to understand the nature and obligation of an oath.

Any parent who abandons a child in Montana under the age of twelve years, with intent wholly to abandon it, shall be punished by imprisonment in state prison not exceeding seven years.

MILITIA.

Massachusetts has passed an act declaring that every able-bodied male citizen, and every able-bodied male of foreign birth who has declared his intention of becoming a citizen, of the age of eighteen and under the age of forty-five years shall be enrolled in the militia. Persons exempted by the act are justices and clerks of record, judges and registers of probation and insolvency, registers of deeds and sheriffs, officers of the army or navy of the United States, officers who have held for a period of five years commissions in the militia of that or any other state; those who have served honorably in the volunteer militia for nine years, ministers of the gospel, physicians, superintendents and officers of state hospitals, prisons, jails, keepers of lighthouses, enginemen and drivers of railroads and seamen employed on board of any vessel; Quakers and Shakers are also exempt, as also members of the fire departments. The militia is divided into two classes, the organized militia, known as the Massachusetts Volunteer Militia, organized under the provisions of the act, and the reserve militia, the latter liable to no duty except in case of war, invasion or for the suppression of riots and aiding civil officers in the execution of the laws.

Idaho, Missouri and Texas have passed similar acts.

Idaho and Wyoming provide in exactly the same language that the National Guard of those states shall be ordered into

the service of the United States by the President of the United States for any purpose for which he is authorized to use the militia of the states by the Constitution and statutes of the United States.

West Virginia provides by law that all or any part of the National Guard of that state may be turned over by the commander-in-chief into the service of the United States on requisition by the President for service without the state for a period not exceeding nine months.

MISCELLANEOUS.

Michigan by law offers a bounty for English sparrows.

Tennessee enacts a law, commonly known as the "Jim Crow Law" for all street cars, and authorizes the conductor to "require any passenger to change his seat when or so often as a change in passengers may make such change necessary."

Minnesota requires interpreters for the deaf and dumb at the examination of such mute before a magistrate testing their sanity.

Universal regret at the extermination of the buffalo is met in South Dakota by a bounty offered by the state of five dollars for each grown buffalo and for each pup buffalo.

The legislature of South Dakota has shown that it is familiar with the law of "negotiable paper," as well as with the characteristics of vendors of lightning rods and patent rights, since they declare by law "that any person who makes an obligation in writing for lightning rods or patent rights shall write in red ink across the face of it in plain, legible writing or print the words 'given for a lightning rod,' or 'given for a patent right,' as the case may require; such obligation so stamped shall not be negotiable."

North Dakota has evidently suffered in the same way as her twin sister, South Dakota, except that she has had troubles that her sister never dreamed of, for she requires by law, in addition to what is embraced in the act of South Dakota, that "if a note is given, for which any stallion or jackass shall

form the whole or any part of the consideration, or for any patent medicine, or for which the consideration shall be the future cure of any disease, the note must be stamped 'given for a jackass,' or 'given for a patent medicine,' or 'given for the cure of disease,' as the case may require, and shall not be negotiable."

It may be gravely doubted whether the speed of "a courier without luggage" in his journey across the plains of North Dakota will be greatly accelerated by the denial to him of a jackass for the prosecution of his journey.

Vermont insists upon licenses for non-resident deer-hunters, and imposes a fine from ten dollars to one hundred dollars for each offense for hunting or discharging firearms except in defense of person or property on the Sabbath day.

Washington, by law, authorizes the governor to appoint a Board of Commissioners to promote uniformity of legislation in the United States, and indicates what subjects shall come under their consideration—those of marriage and divorce, insolvency, descent and distribution of property, execution and probate of wills.

New Hampshire abolishes the ancient and gruesome title of "coroner" and substitutes therefor the high and lofty title of "medical referee."

New Hampshire, by joint resolution, favors the establishment of a National Forest Reserve in the White Mountain region, in accordance with the provisions of a bill now pending in Congress, and the jurisdiction of the state over this territory having been yielded to the United States.

The legislature of Missouri petitions Congress for a repeal of the bankrupt law on the ground that it is now being taken advantage of by designing and dishonest debtors.

A joint resolution of the legislature of Missouri shows how far the President's determination to give a "square deal" to all has affected the legislature of that state; the resolution sets forth the great advantages of the improvement to the Missouri River and that the National Congress in the past has failed in

its duty in this respect, but has made lavish expenditures upon "creeks and small streams in other parts of the country, a result largely due to the fact that no representative from any of the states on the Missouri River has been appointed a member of the Committee of the National House of Representative on Rivers and Harbors; therefore be it resolved,

"Second, That the Speaker of the next House of Representatives and the minority leader of said house be, and they are hereby urged and requested to place upon the Rivers and Harbors Committee of the House of Representatives representatives from those states bordering on the Missouri River."

The Massachusetts legislature, by resolution, authorizes the governor to appoint a commission to consider the expediency of establishing a reservation on the estate of Daniel Webster, in the town of Marshfield, together with a museum, wherein articles commemorative of Webster's public service may be placed; and a like resolution was passed by the same body for the appointment by the governor of a committee of three persons to consider the matter of erecting a public memorial to the late George Frisbie Hoar.

Indiana makes it a misdemeanor, punishable by a fine of not less than fifty dollars nor more than one hundred dollars, for any person to sell fruit trees of a certain variety and deliver to said purchaser trees of a different variety.

The State of Minnesota provides that all fire insurance premiums upon risks of the same character shall be equal and uniform throughout the state, and imposes a severe penalty upon any discrimination being made between different policy holders.

Texas passed an act during the past winter appropriating $65,000 for the purchase in the city of San Antonio, Texas, of certain property adjoining the Alamo Church, and to provide for the preservation of said property; and it is provided, with great wisdom, in the act that the said land shall be delivered, together with the Alamo Church property, to the custody and care of the Daughters of the Republic of Texas as a

sacred memorial to the heroes who immolated themselves upon that hallowed ground.

Kansas makes it unlawful for a person in any one day to kill more than fifteen grouse, or fifteen prairie chickens, or twenty quail, or twenty plover, or twenty wild ducks, or ten wild geese or ten wild brant.

The same state makes it the duty of the fish and game wardens, at stated times, to inspect all places in the state where fish and game are kept for sale or shipment, and the proprietors of such place or places are required to permit an inspection of their places of business by such warden to see that no game or fish are unlawfully there.

It may be of interest to know that the city of Muscotah, in the county of Atchison, Kansas, is empowered to vote bonds to the amount of $1000 for the purpose of uniting with the township of Grasshopper, in said county, for the construction of a city hall, where may be gathered, without let or hindrance, the free citizens of that county to discuss not only the ways and means of exterminating the grasshopper and other insects which disturb the peace and harmony of the people of that community, but where also the actions of the Standard Oil Company may be reviewed and methods adopted for its punishment other than through the gates of the penitentiary.

It is unlawful in Rockingham County, North Carolina, for any person to shoot or trap foxes. The sport-loving people of that county are not to be deprived of the pleasures of the chase.

Fish are protected in Frying Pan Creek and within twelve miles of the summit of Grandfather Mountain and in Kitty Hawk Bay in North Carolina.

Municipal Corporations.

To those who have watched the marvelous progress of the people of the Great Northwest, and who have marked the wonderful strides in commercial supremacy made by the city of Detroit, the gateway of the Great Lakes, it is a comforting

assurance that, whatever of plague, pestilence or famine the hand of Providence may visit upon the enlightened people of that great city, at least so far as legislative interposition can avail, they will be secure from the evils attendant upon the presence of nocuous weeds in that city, for the legislature of Michigan at its last session provided by law for their destruction.

The State of California provides that municipal corporations in which there is a regularly organized fire department shall provide in every year for each member a leave of absence from active duty of not less than five nor more than fifteen days, and in addition thereto a leave of absence from active duty of four days in every month of such service without any abatement of salary.

Indiana changes the time of elections in cities from May to the first Tuesday after the first Monday in November, 1905, and each four years thereafter; and "all elective officers shall be ineligible at the next quadrennial election, no person being permitted to hold any elective office for more than four years in any period of eight years."

The same state provides that "no officer, employee, agent or servant of any corporation or firm, holding or operating under a franchise granted by any city, or having any contract with such city, shall be eligible to any office in such city, and any officer of any city accepting any office in or employment by any such corporation or firm, holding or operating under any such franchise or having any such contract or seeking to acquire any such franchise or contract, shall thereby vacate such city office." "All contracts in contravention of the above provisions shall be absolutely void, and any person violating the same shall be fined not more than $1000 and imprisoned in the state prison not less than one nor more than ten years."

The same act provides that "no councilman or other officer, deputy clerk or employee of any city shall either, directly or indirectly, purchase any bond, order, claim or demand whatsoever against such city during his continuance in office for any

sum less than the amount specified therein, and any bond, order, claim or demand so purchased by any such officer or other person in contravention of the foregoing provisions shall be forfeited to such city and no action shall then be maintained thereon."

Indiana gives power to her cities "to compel the owners of lots bordering on streets to plant, maintain and protect shade trees and lawns."

The same state prohibits any city from granting any franchise for furnishing water, motor power, heat or light for a longer period than twenty-five years.

Texas provides by law that when any city or town has abolished their corporate existence in any manner provided by law, any creditor of any such city or town may apply to the judge of the District Court of the judicial district in which such city or town may be situated for the appointment of a receiver for such corporation; said receiver shall give a bond and shall take charge of all of the real and personal property, including moneys, minute books, ordinances, etc., except such property as pertains to public free schools and devoted exclusively to public use. The act provides how the creditor must proceed in proving his claim. The receiver is empowered to provide for the payment of all claims so established, after determining their priority, by a sale of all property in his hands, and if such is found insufficient to pay such indebtedness, the court, at the request of any creditor, shall levy a tax upon all the property, real and personal, situated within the limits of said city or town, not to exceed the rate allowed by existing laws for such purposes in incorporated cities and towns, and the judge shall make out a tax roll and collect taxes under such levy and assessment in the same manner as is provided by law for the collection of taxes of incorporated cities.

Prisons and Convicts.

Oregon, South Dakota, Oklahoma, Texas, California, New York and other states have provided for the parole of convicts.

The South Dakota act, the others being quite similar to it, is as follows:

"Whenever any person shall be convicted of any felony, the judge, before whom such conviction was had, and the state's attorney are required to furnish the warden of the penitentiary with an official statement of the facts constituting the crime and all information accessible with reference to the career of the convict prior to the commitment of the offense; also as to his habits, associations, disposition and reputation. The duty of the warden is, on this report, to study the life and habits of the convict with a view of recommending him to be paroled, and, when in his opinion, the convict has been in the penitentiary a sufficient length of time to accomplish his reformation and can be released temporarily without danger to society it shall be his duty to recommend his case to the Board of Charities and Corrections for investigation, and if they are of the opinion, after examination, that the case is a meritorious one they shall join with the warden in a recommendation to the governor to grant a parole. If the governor grants it, the warden is to provide the convict with suitable clothing, not to exceed fifteen dollars in value. During the parole the convict is still to be regarded in the legal custody of the warden of the penitentiary and under his supervision, and whenever, in his opinion, the public safety demands it the convict may be rearrested."

Penitentiary commissioners in Tennessee are allowed to give persons released from the penitentiary from one to five dollars in their discretion.

An act of the State of Illinois provides that the Board of Prison Industries shall see to it that under no circumstances shall any of the products of labor of convicts be sold upon the open market, and the Board of Prison Industries are prohibited from making any contracts by which the labor of any convict in that state shall be contracted, let, farmed out, given or sold to any person, firm, association or corporation; while the wardens of the penitentiary are required to see that all convicts who are physically capable thereof shall be employed at useful labor not to exceed eight hours of each day, other than Sunday and public holidays, but such labor shall be either for

the purpose of producing supplies for said institutions or for the state or for any other public institution owned, controlled and managed by the state, or for the purpose of industrial training and instruction, or for the making of crushed rock for road material and for the improvement of public grounds owned by the state, or for agricultural pursuits for the support of the inmates of the institutions. The seventh paragraph of the act provides as follows:

"The labor of persons of the first grade in any of said penitentiaries and reformatories shall be directed with reference to fitting the person to maintain himself by honest industry after his discharge from imprisonment as the primary and sole object of such labor, and such prisoners of the first grade may be so employed at hard labor for industrial training and instruction, even though no useful or salable product result from their labor."

New York has passed an act providing for a commission to be appointed by the governor to make careful inquiry into the operation of the probation system in that state, and to make a full report of their work to the governor to be transmitted to the next legislature. This report will be looked for with interest.

The Board of Prison Commissioners in Massachusetts, with the approval of the governor and council, are authorized to establish a hospital for the treatment of prisoners having tuberculosis.

For the identification of criminals the keeper of a prison in Massachusetts is authorized to cause to be taken the photograph, name, age, height, weight and general description of any persons confined therein for a felony, together with copies of all finger prints in accordance with the finger print system for identification of criminals, and, if deemed advisable, the measurement of such person in accordance with the said Bertillon system.

Massachusetts provides that in cities and towns which provide lodging for tramps and vagabonds, said cities or towns may require said tramps or vagabonds, if physically able, to

perform labor of some kind in return for the lodging and food furnished them.

Missouri appropriates $125,000 for the purchase of raw material required in the manufacture of binding twine in the penitentiary of said state.

Kansas enacts that the right and power to make contracts in respect to any property, both real and personal, is conferred on all persons confined in the penitentiary for a period less than life as fully and completely as if their civil rights were not suspended.

The warden of the penitentiary in Kansas is authorized to employ the surplus convict labor in extending and repairing the state and county roads, and upon other work exclusively for the benefit of the state, and at the State Plant Penitentiary and oil refinery.

Public Health and Safety.

No student of social or municipal problems can fail to note the wide extent of legislation by the states providing for the health and safety of the people.

Pennsylvania provides by an act that no municipal corporation, or any other corporation authorized to supply water to the public within that state, shall be authorized to do so unless it shall file with the commissioner of health a certified copy of the plan and survey of the water works and a description of the source from which the supply of water is derived, and a written permit must first be obtained from the commissioner of health. The commissioner of health may decline the permit and the applicant corporation may within thirty days appeal to the Court of Common Pleas to set aside such decision. Under the same act no corporation or municipality is permitted to discharge or permit to flow into any waters of the state any sewerage, but the governor, attorney-general and commissioner of health may, upon a case presented, permit the discharge of sewerage into waters where, in their opinion, the general interest of the public health would not be injured.

The same state has passed an act giving to the health department of cities of the first class full power to make such rules and regulations as in their judgment may be proper and necessary for the protection of the public health from the diseases of cholera and malaria, typhoid, scarlet, puerperal and relapsing fevers, smallpox, varioloid, chickenpox, diphtheria, diphtheritic, membraneous croups, cerebro-spinal-meningitis, measles, mumps, whooping cough, tuberculosis, pneumonia, erysipelas, plague (bubonic), trachoma, leprosy, tetanus, glanders, hydrophobia and anthrax. The scope of their power shall include reports of physicians in attendance upon persons afflicted, quarantining and disposing of infected bedding and clothing, burial of the bodies of persons who have died from any of said diseases, making rules for the same, the disinfecting of conveyances used in the burial of such persons, the admission to public or private schools or other educational institutions of persons subjected to said diseases and the compulsory vaccination of persons attending the same.

The same state creates a department of health with large and extensive powers, along with powers to abate nuisances detrimental to the public health and to enforce quarantine regulations, and to carry out these provisions the health officer may enter on the premises of any owner or occupier who refuses to allow him to do so in order to abate or remove such nuisances.

The same state creates the Water Supply Commissioner of Pennsylvania, whose duty it is to secure all the facts necessary to advise thoroughly of the situation of the water supply of the state and to adopt such means for preserving and distributing such water supply to the various counties of the state as shall be equitable.

It is provided by law in New York that the State Board of Charities shall have the power, subject to the supervision of the board of managers of the Craig Colony for epileptics in that state in the case of death of any patient who shall have been maintained there wholly at public expense, to cause to be made

by a member of its medical staff an autopsy of the body of such patient, provided, among other things, that such autopsy be confined exclusively to the brain; and provided also that said Craig Colony shall give notice of the above stated powers in admitting patients to the institution.

Wyoming creates a food and oil commission with power to enforce all laws against frauds and adulterations in food, drinks and illuminating oil.

West Virginia adopts a compulsory vaccination law; and Vermont provides for tree wardens of the towns.

California provides that any person who owns, leases or hires to any person any room in any building within an incorporated city for the purpose of a lodging apartment, which room contains less than five hundred cubic feet space in the clear for each person occupying such room, and any person found sleeping in or who hires a room which contains less than five hundred cubic feet space in the clear for each person so occupying such room is guilty of a misdemeanor.

Colorado provides that the State Board of Stock Inspection Commission shall have the power to compel the dipping, spraying or other sanitary treatment of cattle or of domestic animals afflicted with any infectious or contagious disease, with power to seize them, and sell the same at the cost and expense of such seizing, treatment and sale.

Oregon adopts a pure food law, with the usual limitations; while Michigan, Kansas, Missouri and other states provide for the protection of coal miners and the inspection of mines.

South Dakota provides a drainage system to be maintained at the expense of the state for the public health; also a State Food and Dairy Department and Live Stock and Dairy Department; and creates a live stock commission, which provides for the inspection of all animals to be slaughtered and for other purposes.

Minnesota provides for a food commissioner to guard against the adulteration of food produced in the state; and also with power to open and inspect articles brought from

another state and to require them to be dealt with under certain prescribed regulations.

Idaho provides for a State Live Stock Sanitary Board; and also for a State Board of Dairy, Food and Oil Commissioners, with power to inspect any article, milk, butter, cheese, food, illuminating oil, or imitations thereof, made or offered for sale within the state; also provides for a state bee inspector, with power to enter the premises of any bee-keeper where bees are kept, and inspect such bees, and any person resisting the inspector shall be guilty of a misdemeanor. Whether, under the Fourteenth Amendment, the word "person" here would include the queen bee or any member of the hive yet awaits judicial determination.

Illinois provides that the Board of Health of that state, under regulations provided in the act, shall provide antitoxin at a fair and reasonable price to all physicians and others applying for the same, and in case such persons are unable to purchase it, it shall be furnished on an order from the overseer of the poor.

Nevada has established a State Board of Medical Examiners to regulate the practice of medicine. The board may refuse a license or revoke any grant for unprofessional conduct, which includes the following: For procuring or aiding in procuring a criminal abortion; for obtaining a fee on the assurance that a manifestly incurable disease can be permanently cured; wilfully betraying a professional secret; advertising of medical business in which grossly improbable statements are made; conviction for an offense involving moral turpitude or habitual intemperance.

New York imposes a penalty on an apothecary or druggist who omits to label drugs properly, and makes the same a misdemeanor, or to sell poison without labeling and recording the sale.

Massachusetts, by resolution of its legislature, recommends the establishment by the Congress of the United States of a national hospital, or colony, for the care and treatment of persons afflicted with leprosy.

The same state, by resolution, authorizes the State Board of Health to cause a public exhibition to be made of the various means and methods used or recommended for treating or preventing tuberculosis, now recognized as a communicable and preventable disease.

Indiana for enforcing her pure food laws has established a state laboratory of hygiene for chemically analyzing foods, and the sale of any formula for the adulteration of food is punishable by a fine not exceeding $1000, to which may be added imprisonment in jail for six months.

New Hampshire provides for the permanent improvement of the main highways throughout the state, putting their control under the governor and council, with power to appoint a state engineer, all with the purpose of acquiring greater economy in expenditure and permanent improvement in the roads.

New Hampshire provides that it shall be the duty of the attending physician to report every death from pulmonary consumption, and for the cleansing and disinfecting of the apartments occupied by such patient, which are not to be occupied again until so cleansed; and the same state also appropriates $50,000 for the establishment of a state sanitarium for consumptives.

Massachusetts has passed an act for the suppression of the "gipsy" and "brown-tail" moths. An examination of its provisions indicates that an Egyptian plague would be a welcome substitute in that ancient commonwealth for this pest. They are declared to be a public nuisance, and their suppression is not only authorized, but, in the language of the statute, is "required." For the suppression and complete extermination of the pest a superintendent is appointed by the governor, by and with the consent of the council, whose jurisdiction is limited only by the bounds of the power of the state, and whose duty it shall be to make a report of his proceedings to the General Court in January of each year, which report shall be a public document and shall be printed; and for fear that

the peculiar malignity of each type of insect will not be kept clearly before the public mind the report of the superintendent is required to keep separate the expenditures on work against the "gipsy" from the "brown-tail" moth in each city and town. The superintendent is a representative of the commonwealth, and as such he is clothed with powers in nowise inferior to those of the government itself; he may employ clerks, agents, expert advisers and inspectors; make contracts on behalf of the commonwealth, contracts that shall bind the commonwealth, and may co-operate with persons, corporations, other states, the United States or even foreign countries, and may devise, use and require all other lawful means of suppressing said moths, except calling out the militia; he may lease real estate, may use any real or personal property of the commonwealth; may at all times enter upon the land of the commonwealth or any municipality, corporation or other owner; cities and towns, under the general direction of said superintendent, shall destroy the eggs, pupæ and nests of the moths within their limits. The height of exaltation is reached in section 5 of the act, wherein it is provided that when any city or town, in the opinion of the superintendent, is not expending a sufficient amount for the abatement of said nuisance, then the superintendent, with the advice and consent of the governor, *may order* each city or town to expend such an amount as the superintendent shall deem necessary.

It will be interesting to watch the decisions of the courts on this act, and to find out therefrom where the power of taxation resides in that commonwealth.

Missouri has passed an act appointing a dairy commissioner with large powers and duties, and appropriating $10,000 for carrying out the provisions of the act. The commissioner is empowered to enter all creameries, public dairies, butter and cheese factories for the purpose of inspecting the same, take samples and cause the same to be analyzed in the interest of the public health.

The same state appropriates $50,000 for establishing a state sanitarium for treatment of persons in the early stage of consumption.

Connecticut provides that no room wholly or partly underground, not now used as a bakery, shall hereafter be used as a bakery.

Connecticut by law provides for the regulation and building of tenement houses with required space in the rooms, size of yards and of alleys, and that all alterations or changes made in them shall be subject to the approval of a public officer.

Kansas provides for inspectors of bees with power to disinfect diseased hives or to destroy them.

Kansas provides for the appointment of a state live stock sanitary commissioner with power to prescribe and enforce quarantine and sanitary rules throughout the state, to inspect diseased animals and to do all things that the state might do in the protection of the live stock of the state.

Montana appoints a Board of Sheep Commissioners consisting of one member from each of the counties of the state. They shall have the power of appointing one or more special inspectors. The inspector must inspect all sheep within his county of which he has received notice as being infected with any infectious or contagious disease, must provide for the dipping or otherwise treating of all scabby or diseased sheep within his county and may cause the sheep to be quarantined. The expense of said inspection to be borne by the owner of the sheep, and the sheep must not be removed from one point to another without a certificate from the inspector; and the act makes it unlawful for any railroad company to ship sheep from one place to another within the state in cars in which any sheep have been shipped until the cars have been cleaned and carefully disinfected, and persons bringing sheep into the state must notify the state veterinary surgeon, who in turn must notify the local inspector, and all sheep brought into the state must be dipped and branded and must remain in quarantine after such dipping and branding.

PRIVATE CORPORATIONS.

Wisconsin, responding quickly to popular demand, has passed a law providing for the distribution of the surplus of mutual life insurance companies among the policy holders at least once every five years.

New Jersey provides for the appointment by the governor of a committee of three persons to revise and codify the laws relating to corporations, who shall report to the legislature on or before the first day of its next session bills for carrying out this purpose.

Minnesota prohibits corporations from contributing for political purposes, and by a singular obtuseness a penalty is imposed, not upon the corporation, but upon any officer or stockholder who takes part in or consents to the making of such contributions.

New Mexico provides that all insurance companies doing business within that state shall pay in lieu of taxation to the superintendent of insurance two per cent. on the gross amount of premiums received within this territory during the year ending the previous 31st day of December.

Washington permits foreign banks to do business within that state for the purpose of loaning money and buying and selling exchange, but they are prohibited from receiving deposits in any manner, directly or indirectly.

The same state, against the policy of many others, provides that any corporation organized under the laws of this state, or of any other state of the United States, shall have the power and authority to subscribe for, purchase, hold, sell, assign and transfer shares of the capital stock of any other corporation, and by its duly authorized officer or proxy to vote such shares at any and all stockholders' meetings of the corporation whose shares are so held, and all existing holdings by any such corporation in the shares of the capital stock of any other corporation are hereby validated.

In New York an annual franchise tax for the privilege of exercising corporate franchises within the state equal to one

per cent. on the gross amount of premiums received during the preceding calendar year on business done in the state is exacted of insurance companies, both domestic and those organized under the laws of any of the other states of the United States.

Banking or trust companies in New York are prohibited from making any loans or discounts to any person or corporation to an amount exceeding one-tenth part of their capital stock actually paid in and surplus, and no such corporation or any of its directors or officers shall be interested in the purchase of any promissory note issued by it for a less sum than the face value thereof.

A law of New York prescribes the securities in which deposits in savings banks may be invested:

(1) In the stocks or bonds of any incorporated city in any one of the states of the United States, which was admitted into the union prior to January 1, 1896, and which, since January 1, 1861, has not repudiated or defaulted in the payment of any part of the principal or interest of any debt authorized by the legislature of any such state to be contracted, with certain other provisos.

(2) In bonds and mortgages or unencumbered real property situated in that state to the extent of sixty per cent. of the value thereof, with several other provisos, designating mortgage bonds of certain railroads which may be purchased.

Massachusetts provides that all corporations selling steamship or railroad tickets to foreign countries, who, in conjunction with said business, carry on the business of receiving deposits of money for the purpose of transmitting the same to foreign countries, shall execute a bond to the treasurer and receiver-general in the sum of $15,000, conditioned for the faithful transmission of any money.

Indiana prohibits the president, teller, cashier, clerk, officer or employee of an incorporated bank from borrowing any of the funds of such bank "without first executing his note or

other evidence of debt therefor, bearing the written consent thereto of the board of directors of any such incorporated bank, etc.," and a penalty of imprisonment of not less than two nor more than fourteen years is imposed for a violation of this law.

Connecticut prescribes certain securities in which legal investments for savings banks may be made.

A bill entitled "Enfield Shakers," passed by the Connecticut legislature, provides that when, in the opinion of the selectmen, there is danger that the property of an association or corporation, organized in whole or in part for the support of its members, shall be lost or expended in such a manner that the members shall become an expense to the town, the selectmen may apply to the Superior Court for a receiver of the property and for other equitable relief.

Texas provides for the organization of corporations for the growing, preparing for market and selling of rice; and also corporations for the purpose of growing and selling sugar cane, and making and refining sugar, molasses, etc.

The same state provides that whenever any passenger, freight, baggage or other property has been transported by two or more railroads, express companies, steamboat companies or common carriers of any kind whatsoever, that an action may be brought against any one or all of such common carriers, and service of process in such action on foreign corporations having agents in that state may be had by serving "upon any train conductor who is engaged in handling trains for two or more railway corporations, whether said railroad corporations are foreign or domestic corporations, if said conductor handles trains over foreign or domestic corporation's tracks across the state line of Texas and on the track of a domestic railway corporation within the State of Texas, or upon any agent who has an office in Texas, and who sells tickets and makes contracts for the transportation of passengers or property over any line of railway, or part thereof, or steamboat of any such foreign corporation."

New Hampshire permits a corporation that may lawfully mortgage its property to include within such mortgages its franchises also.

Texas provides that in a suit against a railroad company growing out of a personal injury or death of a servant caused by the negligence of such corporation, a plea by the company of the assumed risk of the deceased or injured employee shall not be available where such employee, within a reasonable time before his death or injury, had informed the employer of the defect, nor where a person of ordinary care would have continued in the service with knowledge of the defect and danger.

Kansas provides that it shall be lawful for subscribers in the charter of any private corporation hereafter to be organized to have inserted in such charter a provision that no stockholder of the corporation shall ever own or vote, as owner or by proxy, to exceed a certain minority per cent. of the capital stock of such corporation.

RAILROADS.

Missouri, Montana, Kansas and Arizona have passed the Employer's Liability Bill to protect employees of railroads and public servant corporations.

Montana, Kansas and Arizona require all railroads to maintain facilities for passengers and freight at all platted town sites containing not less than one hundred inhabitants on the original plat and survey of the railroad.

New Jersey has appointed a commission to revise and codify the law relating to master and servant, with a view of considering the advisability of adopting an employer's liability bill.

Oklahoma provides for the furnishing by all transportation companies of sufficient and suitable cars for the handling of freight for the business along its roads, and for failure to comply the company shall forfeit to the party so applying for them the sum of one dollar per day, or fraction of a day, for each car failed to be so furnished. Four days' notice, however, must be

given by the shipper to the agent of the company that he desires said car or cars, and the shipper shall have forty-eight hours for loading and unloading such cars, provided the car is of less than 60,000 pounds capacity.

Missouri has passed a similar act.

Oklahoma also provides that all railroads hereafter to be built therein whose lines run within three miles of a county seat in said territory shall be required to build their said line of road through said county seat.

Minnesota, to check the evil of rebates given on the part of transportation companies to shippers, grants the power to its Railroad and Warehouse Commission, or its agent, to make a thorough and full examination of all books, vouchers, papers and accounts of all common carriers of that state.

The same state requires all railroad companies, in case of wreck or casualty on its road, wherein any person is injured or killed, to make report to the Railroad and Warehouse Commission, and the said commission has the power to require the railroad company to comply with every reasonable requirement prescribed by said commission to prevent the reoccurrence of any such wreck or accident, and such commission is to report to the legislature biennially all wrecks, casualties or accidents, with recommendations for such additional legislation as they deem proper.

Illinois provides that no corporation shall transport any fish caught in its waters in that state with seine or net, or in any other way, except by hook and line, or any of the varieties of fish for which a closed season is prescribed for catching with seine or net during such closed season, under a penalty of not less than twenty-five dollars nor to exceed one hundred dollars, and the possession of any such fish for shipment or in transit shall be *prima facie* evidence of the violation of this act.

The same state makes practically the same requirement in reference to the transportation by railroad companies of any quail, prairie chicken, wild turkey or grouse killed within the

limits of the state or any place outside of the state for any purpose.

Idaho has passed a similar statute.

It will be interesting to watch the decisions of the courts on these statutes in a case where fish have been placed upon a car in Illinois under a bill of lading to New York.

Illinois creates the office of inspector of automatic couplers, power brakes, etc., on railroad locomotives, tenders, cars, etc., and makes it his duty to inspect the couplers, brakes, handholds, etc., on railroads operating in Illinois, and to make weekly reports of his inspection to the Railroad and Warehouse Commission, reporting all locomotives and cars which are found to be defective.

Illinois also provides by law that it shall be unlawful for any railroad company to use any locomotive in moving trains not equipped with a power drive wheel brake and appliances for operating the train brake system; and the law further declares that such corporation may lawfully refuse to receive from connecting lines of road or shippers any cars not equipped sufficiently in accordance with the first section of this act with such power or train brakes as will work and readily interchange with the brakes in use on its own cars.

Massachusetts appropriates $3000 for taking evidence given at inquests in case of death by accident on a steam or street railway.

Indiana provides that in actions against common carriers on account of the failure of such carriers to safely transport property received by them "any limitation by contract of the common law liability of such carriers is hereby made matter of defense which shall be specifically set up by answer, and which shall not be provable under a general denial."

Indiana has provided for a railroad commission of three members, with the power to supervise all railroad, freight and passenger traffic, adopt regulations for car service between railroads and correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger traffic.

Appeals may be had from the commission to the Supreme Court of the state. Minnesota and Kansas have passed similar acts.

In Missouri it is provided that in a suit to recover any loss to property transported by a common carrier, and one or more connecting carriers, the plaintiff may join as defendants the original carrier and all connecting carriers and shall be entitled to recover in such action from the common carrier through whose neglect any loss to such property was sustained.

All conductors, firemen, train dispatchers or other trainmen who are worked for sixteen hours within a day of twenty-four hours are prohibited by law of Missouri from going on duty again for such railroad until they have had at least eight hours rest.

The same state gives power to the railroad commissioners to require every train to stop at every station, when in their opinion, it is necessary in order to provide passengers with a reasonably adequate service, giving notice to the company, etc. They have power to require the railroads to deliver and receive freights at the crossing of other roads and to make all reasonable connections and terminal connections, to maintain freight agents and to keep depots warmed and lighted.

Kansas has passed an act quite similar to this.

Wisconsin, as a storm center, in the past year has passed an elaborate act to regulate railroads and other common carriers, providing for a railroad commission to be composed of three commissioners to be appointed by the governor, by and with the consent of the Senate.

The qualifications of the commissioners are that one shall have a general knowledge of railroad law and each of the others shall have a general understanding of matters relating to transportation, and the governor may at any time remove any commissioner for neglect of duty, malfeasance in office, upon notice, etc. In addition he shall not be personally interested in any railroad in that state or elsewhere, and if he

becomes so interested his office *ipso facto* becomes vacant, and he shall hold no other office or position of profit or serve on or under any committee of any political party, but shall devote his entire time to the duties of the office.

The railroads are required to publish and post at stations their rates and schedules, and they are prohibited from collecting or receiving any greater or less compensation for any service than is specified in such printed schedule; they are required to provide and maintain adequate depots—well lighted, cleaned and warmed, and to provide switches and side tracks, and upon reasonable notice they are required to furnish suitable cars for any and all persons for the transportation of any and all kinds of freight in carload lots without discrimination between shippers at competitive or non-competitive places. Upon complaint of any person, corporation or municipality that any rates are unreasonable, or that any service is inadequate, the commissioners may notify the railroad company and proceed to investigate the same, and if such rates or service shall be found to be unreasonable the commission shall have power to fix and order substituted rates and to make such orders respecting such regulation or service as it shall determine to be reasonable, and such revised rates and regulations after such investigation by the commission shall be adopted by the the railroad companies.

The same law provides that no railroad shall, directly or indirectly, by any rebate, drawback or any other device whatsoever, charge or collect from any person or corporation a greater or less compensation for any service rendered than that prescribed in published tariffs then in force; and further, that it shall be unlawful for any railroad to demand, charge or collect from any person or corporation a less compensation for the transportation of property, or for any service rendered in consideration of said person, firm or corporation furnishing any part of the facilities incident thereto.

This section was evidently intended to meet a method of discrimination pointed out by the Interstate Commerce Com-

mission whereby manufacturers sought to evade the law against rebates by putting in a switch from their plant to some railroad and being allowed to share in the proceeds of the carrying of their freight as a connecting line with said railroad; and while the books of the railroad showed that they were charged the same rate of freight with other manufacturers they might not show that they were enjoying a dividend by reason of the switch as a connecting line in the traffic and not in proportion to the length of the switch.

Heavy penalties are prescribed in the law for the violation of it, both as against the railroad and the officers.

Wisconsin prohibits the giving of free passes or franks by railroad or telegraph companies to any political committee or any candidate for or incumbent of any office.

TAXATION.

In New York a tax of two cents is to be collected on all sales on each $100 of the face value of any stock, or agreements to sell shares of said stock in any domestic or foreign corporation, association or company, whether made upon the books of the association or otherwise.

New Hampshire, South Dakota, Maine, Minnesota, Vermont and other states provide by law for taxation on collateral inheritances, gifts or legacies.

In Pennsylvania cultivation of forest and timber trees is encouraged, so that any person shall have a rebate on all taxes to the amount of eighty per cent. thereof for a period of thirty-five years on all lands which shall be planted with forest or timber trees of not less than three hundred to the acre.

Vermont exempts all lands so planted from all taxes for a term of ten years.

North Dakota offers a bounty of three dollars per acre on from one to ten acres that may be planted in forest trees not more than eight feet apart each way, and any person who shall plant trees in rows as boundary lines along the public

highways shall be entitled to a bounty at the rate of two dollars for every eighty rods of each road.

New York provides for a bounty on sugar beets, with terms and limitations governing the same.

Vermont has passed quite an elaborate act providing for the taxation of foreign insurance companies, railroad companies, sleeping car companies, etc., and has adopted the method of taxation as to such public service corporations which has heretofore obtained in Massachusetts and Pennsylvania, and received the sanction of the Supreme Court.

With reference to a railroad partly within and partly without the state, a tax is levied upon that portion of the entire gross earnings of said road, both within and without the state, derived from all sources for each semi-annual period hereinafter referred to, which the total mileage within that state of all revenue-earning trains operated upon said railroad during said semi-annual period bears to the total mileage both within and without that state of all revenue-earning trains operated upon the entire line of said railroad, both within and without that state, during such semi-annual period.

Missouri has adopted the same principle in a law providing for the taxation of cars belonging to car trust companies.

Rhode Island, under a new law, provides that all real and personal property of residents, whether individuals or corporations, shall be taxed in the town of the owner's place of abode for the larger part of the preceding twelve months, and that all tangible personal property belonging to non-residents shall be taxed in the town where such property is situated.

On March 24, 1905, the House of Representatives of Massachusetts passed the following resolution, which has been passed by the Senate:

"*Resolved*, That the General Court of Massachusetts favors such action by the Congress of the United States as shall cause the removal of duty upon hides;

"*Resolved*, That a copy of these resolutions be sent to each of the representatives and senators in Congress from this commonwealth."

The same body on March 27, 1905, adopted resolutions favoring "freer trade relations between the United States and the Dominion of Canada and between the United States and Newfoundland, as soon as it is possible to secure such relations without injury to American agriculture, American labor or American industries, and without sacrificing the American policy of protection to American industries, upon which not only the manufacturing, but the agricultural and mercantile interest of the commonwealth have largely prospered.

"'The test of protective legislation, however, should not be 'Is a duty demanded?' but 'Is a duty needed?'"

Missouri provides that the taxes assessed on shares of banking stock, whether such corporations are organized under the laws of Missouri or the United States, shall be paid by the corporations respectively as agents of each of its shareholders, which the bank may either recover from the owners of the shares or deduct the same from the dividends accruing on such shares.

Texas provides by law for a franchise tax on all private and domestic corporations which have, or may hereafter be chartered under the laws of the state, of one dollar on each $2000 of the authorized capital stock of the corporation up to $100,000, and one dollar on each $10,000, or fractional part thereof, of such stock in excess of $100,000, etc., and on foreign corporations which have or may hereafter be authorized to do business in the state a tax of one dollar on each $1000, or fractional part thereof, of the authorized capital stock of the corporation up to and including $100,000, and one dollar on each $5000, or fractional part thereof, of such stock in excess of $10,000, etc.

Texas also provides for intangible assets of certain corporations to be taxed, and provides for the creation of a State Tax Board for the valuation of such intangible assets, and for the distribution of such values for local taxation and for the assessment of such assets and the levy and collection of taxes thereon. The corporations embraced are all railroad com-

panies, turnpike companies, telegraph and express companies, except sleeping car companies, dining car and palace car companies.

The same state levies a tax of two and one-half per cent. on the gross receipts of all express companies from charges and freights within the state. On sleeping car companies and dining car companies an annual tax equal to four per cent. of their gross receipts earned within the state, and on other companies different rates of taxation.

Kansas provides that all car companies, other than railroad companies, owning and operating passenger, freight or other cars in the State of Kansas shall make each year a full statement to the auditor of the state showing the number of car days made by their cars during the preceding year, and the Board of Railroad Assessors shall divide the number of days in the preceding year and the quotient so found shall be the number of cars on which said company shall be assessed for that year. This act seems to follow the decision of the court in Pullman Car Company *vs.* Pennsylvania *et als.*[1]

Kansas provides for a bounty of one dollar per ton to be paid upon each and every ton of sugar beets grown within the state, and appropriates $10,600 to carry out the bounty.

Kansas has by law removed any doubt as to the right of any number of persons, whose property may be affected by an illegal tax, to enjoin the same before the courts.

Kansas provides that all property used in conducting and distributing heat, light, water, power, oil, gas or any other commodity shall be listed and taxed, by city, town, school district or township or county in which said property, or any part thereof is located, and if said property be a part of the assets of a corporation represented by shares of capital stock it shall be deducted at its true value from the total true value of all the stock of said company or corporation.

[1] 141 U. S. 18.

TRADE AND COMMERCE.

Pennsylvania and Tennessee have passed laws for the registration of trade-marks, trade names, stamps, designs, devices, shop marks, etc., and for protecting and securing the rights and interests therein of the persons filing the same.

The Pennsylvania act is quite elaborate, and provides that when such trade-mark or device has been properly registered it shall be unlawful for any other person or corporation to use or offer for sale or dispose of any goods, wares or merchandise containing such trade-mark or device.

Under this heading I have placed the law of Michigan and other states creating a state highway department, providing for the making and keeping up the roads of the state under one complete system.

In Kansas any corporation, foreign or domestic, engaged in the manufacture or distribution of any commodity of general use that shall intentionally, for the purpose of destroying competition, discriminate between different sections or communities by selling such product to one section or community at a lower rate than to another, after equalizing the distance from such point of manufacture and freight rates therefrom, shall be deemed guilty of an unfair discrimination, and upon conviction thereof shall forfeit not less than $200 for each offense.

All pipe lines for the conveyance of crude oil in the State of Kansas are declared by law to be common carriers, and the owners thereof are subject to rules prescribed for them by the State Board of Railroad Commissioners for the conduct of their business; and the same act prescribes a maximum rate of charge for all oil transported over said lines.

Utah has passed an act to prevent unjust discrimination against publishers of newspapers by persons or corporations engaged in the business of gathering and distributing information and news, and declaring such combinations to be unlawful. The act declares the business of gathering and distributing news for publication to be a business in which the public

have an interest, and prohibits the making of any distinction with respect to newspaper publishers desiring to purchase news for information and publication, and declares that every combination having for its object the control of information or news gathered for distribution and publication a trust hostile to the public welfare and prohibits it, and that all persons engaged in such business shall furnish news to any and all newspapers at the same price charged to members of the association or corporation and shall render equal and impartial service.

North Dakota passes a stringent anti-trust law; first defining what a trust is, and then declaring that a corporation incorporated under the laws of that state which shall violate the provisions of the act shall forfeit its corporate existence and cease to exist; and further, that any foreign corporation authorized to do business in that state that shall violate any provision of this act is denied the right and prohibited from doing any business within that state, and the authority granted, by the filing of its acts of incorporation in that state authorizing it to do business therein shall cease and become void. Special attention is called to this provision of the act.

"That a purchaser of any article or commodity from any person or corporation transacting business contrary to any provision of the preceding sections of this act shall not be liable for the price or payment of such article or commodity, and may plead this act as a defense to any suit for such price or payment."

California prohibits the use of the word "trust" in combination or connection with the words "company," "corporation," "association" or "syndicate."

Arkansas has passed a law declaring that any corporation, organized under the laws of that or any other state, in transacting business in that state, that shall hereafter enter into any pool trust agreement or combination, whether the same is made in that state or elsewhere, with any other corporation or

any other person, to regulate or fix either in that state or elsewhere the price of any article of manufacture, or any article or thing whatsoever, or to maintain said price when so regulated and fixed, or who shall hereafter enter into any pool agreement, contract or combination, whether made in that state or elsewhere, to fix or limit in that state or elsewhere the amount or quantity of any article of manufacture, or any article or thing whatsoever, shall be deemed and adjudged guilty of a conspiracy to defraud and shall forfeit not less than $200 nor more than $5000 for every such offense; and if such act be done by a corporation organized under the laws of that state, it shall thereby forfeit its corporate rights and franchises; and the purchasing of any of the articles or things mentioned therein contrary to the provisions of the act is declared unlawful, and the purchaser shall not be liable for the price or payment thereof, and if money has been paid on such a purchase it may be recovered back.

The sixth section of the act provides that if any person or corporation engaged in the manufacture or sale of any article of commerce produced in that state or elsewhere shall, with the intent and purpose of driving out competition, or for the purpose of financially injuring competitors, sell within the state at less than the cost of manufacture or production, or give away in the state their productions for the purpose of driving out competition or financially injuring competitors engaged in similar business, said person or corporation resorting to this method of securing a monopoly in such business shall be deemed guilty of a conspiracy to form or secure a trust or monopoly in restraint of trade, and upon conviction shall be subject to the penalties of this act hereinbefore stated. Further provisions are incorporated in the act setting forth the requirements of domestic and foreign corporations doing business within the state.

The constitutionality of this act has been sustained by the Supreme Court of Arkansas recently with the dissent, however, of two of the five judges of that court.

The Kansas legislature passed the following concurrent resolution:

"That our representatives in Congress be requested and our senators directed to prepare, urge and perfect such national legislation as will control the Standard Oil Company, and protect the oil industry in Kansas from destruction by the greatest monopoly the world has ever known."

War Reminders.

Maine exempts soldiers of the Civil War from payment of the poll tax, and Delaware exempts them from paying peddler's licenses.

California permits ex-union soldiers and sailors of the Civil War to vend, hawk and peddle goods, wares and merchandise not prohibited by law in any county, town or village of the state without paying any license.

Idaho provides for a soldiers' home for all honorable union soldiers who served in the union army during the War of the Rebellion or who served in the Spanish-American War; also for all members of the State National Guard or veterans of the Mexican War.

New York provides for a monument to her soldiers of the Civil War who were imprisoned and died at Andersonville, in the State of Georgia.

A resolution which does honor to the legislature of Massachusetts and exhibits its broad patriotism is as follows:

"*Resolved*, That, in the death of General Fitzhugh Lee, the general court laments the loss of one who has done much to preserve and increase the traditional friendship between Massachusetts and Virginia, and whose strong character and kindly manner had endeared him to those citizens of Massachusetts who had the honor of making his acquaintance. As a brave and skillful soldier, who twice wore the uniform of the United States; as a representative of our government at Havana in time of peculiar danger and difficulty; as a firm and patriotic upholder of a new and reunited country—in all these capacities, and especially the last one, Massachusetts honors Fitzhugh Lee and joins with Virginia in regret and sorrow at his death."

Will you not permit me, as a loyal son of the Old Dominion, to pause for a moment to express on behalf of that commonwealth the sentiment of her deep gratitude for this expression of the feelings of Massachusetts for our noble dead, and to express the hope that the close and intimate ties which bound these two ancient commonwealths together in the earlier days of the country—once broken, but now happily reinstated—may never again be severed?

Massachusetts provides for the erection in the National Cemetery at Winchester, Virginia, of a monument to the soldiers of the Civil War from that state who lost their lives in the Shenandoah Valley.

Indiana punishes by fine not exceeding twenty dollars the unauthorized wearing of a G. A. R. button, or obtaining money by virtue of a card containing a similitude of the button.

The Sundry Civil Bill passed by Congress includes within it an appropriation of $250 for the care, protection and maintenance of the plot of ground known as "Confederate Mound," in Oakwood Cemetery, Chicago—a beginning of the realization of the patriotic desire of the late President McKinley that the cemeteries of the Confederate dead should be, equally with those of the Federal dead, under the care and protection of the federal government.

An echo from Appomattox is found in a bill passed by Congress for the payment of claims for horses, saddles and bridles taken from the Confederate soldiers in violation of the terms of surrender magnanimously accorded the Confederates by General Grant, and the sum of $100,000 is appropriated for this purpose.

A bill which has been received with marked approval throughout the country, as another evidence of the obliteration of the scars of war, is one passed by the Congress of the United States which directs or provides for the delivery to the proper authorities of the different states of the battle flags now in the custody of the War Department. This law embraces

not only Confederate flags which were captured, but the Union flags of different regiments which had found their way into the War Department.

LEGISLATION OF CONGRESS.

"An Act amending the law in reference to the qualifications of Directors of National Banks" requires that "every director must, during his whole term of service, be a citizen of the United States, and at least three-fourths of the directors must have resided in the state, territory or district in which the association is located for at least one year immediately preceding their election. Every director must own in his own right at least ten shares of the capital stock, and if he ceases to be the owner of the required number of shares, thereby vacates his place."

"An act to revise and amend the Tariff Laws of the Philippine Islands" provides for "duties to be collected on all articles and merchandise imported into the islands, and also for export duties. Also the prohibition of dynamite, gunpowder, firearms, etc., except under a special license issued by the civil government; also roulette wheels, gambling layouts and all machines used in gambling are likewise prohibited."

Under many of these schedules a specific duty is required. Export duties are provided on such articles as raw hemp, indigo, sugar, cocoanuts and tobacco, but articles that are products of Philippine Islands, which are admitted into the United States free of duty, shall be exempt from any export duties from the islands.

Motormen on all street cars in the District of Columbia are protected from the weather by having a glass vestibule provided for them.

The sum of $150,000 is appropriated for the establishment in the Hawaiian Islands of a hospital station and laboratory at Molokai, for the study of the methods of transmission, cause and treatment of leprosy, thereby enabling the government to add to its store of knowledge another department, in a direction in which they have been sadly wanting in the past.

Writs of error and appeal are also provided for from the Supreme Court of the Territory of Hawaii to the Supreme Court of the United States in all cases where the amount involved, exclusive of costs, exceeds the sum of $5000.

The American Academy at Rome, for the purpose of establishing an institution to promote the study of fine arts, and to aid and stimulate the education of architects, sculptors, etc., is incorporated, with many distinguished American names as incorporators.

The usual River and Harbor Bill was passed, with the usual number of remarkable appropriations. The people of New Jersey rejoice that Raccoon Creek will have $15,000 for its improvement this year, and the cavaliers of Virginia, in years gone by known as a God-fearing people, will be shocked to know that Pagan River in that ancient commonwealth has received the kind benefactions of the federal government. Let us hope that this appropriation by the government may induce the people of that state to change the name of this hitherto unknown stream from Pagan River to "Charity Creek."

$40,000 is deemed a small amount to be appropriated under this bill to remove the water hyacinth from the navigable waters of the States of Texas and Louisiana.

Though most of the states have passed laws quarantining diseased cattle and preventing the shipment of the same within their borders without inspection, the Secretary of Agriculture under a bill passed last year is given the power to quarantine every state or territory when he shall determine the fact that cattle are infected with any contagious disease, and providing that no railroad company shall receive or transport cattle from such infected state or territory except under such rules and regulations as the Secretary of Agriculture may prescribe.

Another act prohibits the transportation by interstate or foreign commerce of all insect pests, or the eggs, pupæ or larvæ of an insect injurious to cultivated crops, vegetables, etc.

$100 is appropriated in an act to meet the share of the United States in the expenses of the Special Bureau, created by article 82 of the General Act, concluded at Brussels, July 2, 1890, for the repression of the African slave trade. A sum which indicates either a diminished interest in the subject, or more probably nearly a complete eradication of that evil in the world.

Among the statutes of most interest passed by the last Congress was the act to authorize, in connection with the Jamestown Tercentennial, an international naval, marine and military celebration. The statute was passed in the closing days of the session, and approved March 4, 1905. It makes an appropriation of $250,000 for the purpose of holding in connection with the exhibition, a government celebration in the waters of Hampton Roads. It appoints the President, the Secretary of the Treasury, the Secretary of War, and the Secretary of the Navy a commission to have full charge of the government exhibition at this time.

The Jamestown Exposition, to be held in 1907, in order to celebrate the first permanent settlement of the English-speaking race upon this continent, is an event of unusual interest, and unique in its opportunities. No other exhibition has had such facilities for a marine display, as no other has been held upon such a magnificent sheet of water as Hampton Roads, upon which can ride the navies of the world. The President has issued his proclamation inviting the nations of the world to take part in the celebration, and it is believed that the greatest naval display the world has ever witnessed will be one of the chief attractions.

The managers of the Exposition itself express an intention of leaving the beaten track of other expositions as far as possible, and emphasizing not so much the industrial as the historical and literary development of the nation. In this they have a rare opportunity. It was these waters which first saw the small craft sounding their way inward, and which later heard the guns of the "Monitor" and the "Merrimac" during the

Civil War. Within sight of Fortress Monroe, and within easy reach of Yorktown, Jamestown and Williamsburg, no more historic sight in our entire country can well be imagined. To the Bar it would be especially interesting, for at Jamestown the first representative assembly that ever met in America was convened. This was in 1619, a year before the landing on Plymouth Rock.

Following the lead of the United States, Virginia, New York, Pennsylvania, North Carolina, Illinois, New Jersey, Missouri and Connecticut have already made appropriations for the same purpose, while Maryland, Massachusetts, Maine, Michigan, Wisconsin, Rhode Island, Florida and Georgia have appointed commissions to consider such. It would seem to be peculiarly appropriate that all of the original thirteen states should manifest their interest by providing for representation in this great celebration.

Impeachment of Judge Charles Swayne, United States District Judge for the Northern District of Florida.

A subject of interest to the profession during the past winter of a semi-legislative character was the impeachment of Judge Charles Swayne, United States District Judge for the Northern District of Florida. While the result of the trial was the acquittal of the defendant, the grounds upon which the result was obtained, on some of the charges, as set forth in the brief of counsel and in their arguments before the Senate, are of interest in their bearing upon the laws which control trials by impeachment and the construction of section 4, article ii, of the Constitution, which provides that "the President, Vice-President and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery or other high crimes or misdemeanors."

Counsel for the defendant demurred, in effect, to articles 1, 2, 3, 4, 5 and 6 of the impeachment, or to be more accurate filed pleas to the jurisdiction, contending that the

facts set forth in said articles, even if true, did not constitute impeachable offenses.

Articles 1, 2 and 3, put in different forms, charged that the defendant, in settling his accounts with certain United States marshals under an act of Congress providing for the reasonable expenses for traveling and attendance of a judge when lawfully directed to hold court outside of his district, exacted and received in payment for such expenses from said marshals sums in excess of the amount allowed by law.

The fourth and fifth articles charge the use by the defendant of a certain car belonging to a certain railroad, "the said railroad company being at the time in the possession of a receiver appointed by the said Charles Swayne, judge as aforesaid, on the petition of creditors."

An additional objection was made by counsel to the last named article that the article did not charge that the defendant did so "knowingly" or "maliciously and unlawfully."

The sixth article charges that the defendant was a non-resident of the Northern District of Florida.

The defense insisted, with great ability, that on all of these charges, admitting them to be true, a conviction could not be asked unless the offenses charged were embraced in the words "high crimes and misdemeanors" as construed in the parliamentary law of England as that law existed in 1787, when our Constitution was adopted; that the construction given to the phrase at that time in England was incorporated into our Constitution as a part of the phrase itself; and unless the offenses charged in these articles were recognized in the parliamentary law of England as impeachable offenses that the Senate, as the high court for the trial of impeachments, had no right to consider them. And furthermore, in article 6, charging the defendant with being a non-resident of the district for which he was appointed, the constitutionality of the statute was assailed. It is as follows: "Every judge shall reside in the district for which he was appointed, and for offending against this provision shall be guilty of a high

misdemeanor." It was argued that since the words "high crimes and misdemeanors" had a fixed and unalterable meaning as words of art when put into the Constitution, and that meaning was fixed by the parliamentary law of England prior to 1787, that Congress had not the power to add to or diminish the constitutional words "high crimes and misdemeanors" by declaring a failure to reside in the district to be a misdemeanor. The arguments by which counsel reached these conclusions were interesting and ingenious. They first attempted to give in detail all of the impeachment trials in England of judges from Lord Bacon in 1621 down to Sir William Scroggs, Chief Justice of the King's Bench, in 1680, showing that in each of these cases the articles of impeachment were based upon acts of judicial misconduct *on the bench*, and by strong innuendo it was implied, if not directly insisted upon, that these trials, which they enumerated, constituted all of the precedents upon which the parliamentary law of England was based; that as the offenses charged in the several articles against the defendant constituted no offense, since they were not found in the precedents cited, and as the offenses charged against the defendant were on account of acts of misconduct *not* on the bench, they must fall to the ground and be disregarded by the High Court of Impeachment.

The second ground taken was that in the Act of Settlement (12 and 13 William III, chapter 2) 1701, it was provided that "upon the address of both Houses of Parliament, it may be lawful to remove them (the judges)"; so that after the Act of Settlement of 1701 the English had two modes of getting rid of their judges; one, for high crimes and misdemeanors by impeachment, and the other by the simple method of address of both Houses of Parliament, for a cause which did not necessarily arise to the dignity of a high crime or misdemeanor; and that when the Federal Convention met and this matter was under consideration, it was proposed by Dickinson, of Delaware, to amend article ii, section 2, after the words "good behavior" by inserting the words "provided that they

may be removed by the executive on the application by the Senate and House of Representatives." Mr. Gouverneur Morris objected on the ground that there seemed to be a contradiction for judges to hold their offices during good behavior and yet be removable without a trial. Mr. Randolph opposed the motion as weakening too much the independence of the judges. Only one state, Connecticut, voted for the amendment. Mr. Mason moved to insert after the word "bribery" the words "or maladministration." Mr. Madison thought so vague a term would be equivalent to a tenure during the pleasure of the Senate. Mr. Mason withdrew "maladministration" and substituted "other crimes and misdemeanors against the state." And therefore, counsel for Judge Swayne argued that removal by address was rejected by the Convention, and amendments embracing the expressions of impeachment for "malpractice and neglect of duty or maladministration" being also rejected, the conclusion was strong that the Convention intended to confine the power of removal of a judge to those cases where his conduct amounted to "treason, bribery or other high crime or misdemeanor" as understood in the common law of England as of 1787, and that the power to remove by impeachment for immorality of conduct, dissolute habits, malpractice, neglect of the duties of the office or any other cause less than that which would constitute a crime at common law as of 1787 did not exist; for such offenses were not recognized as high crimes and misdemeanors in England in 1787, and could not be reached by address or any other procedure, since no such method has been provided for in our Constitution.

It is to be hoped that the acquittal of the defendant is not to be taken as an endorsement by the Senate of the views of counsel herein stated. While there has been some lack of uniformity in the authorities on the subject, certainly the weight of authority in this country does not sustain the proposition that impeachment can be constitutionally maintained only for an offense which was an offense recognized by the

English parliamentary law prior to 1787 or the common law prior to that date or even by a statute of the United States; nor do the authorities and precedents sustain the view of counsel that such offense by a judge must be while in the discharge of his duty on the bench. Against the position of counsel are arrayed Story, Tucker, Curtis, Rawle and Pomeroy—the latter in his discussion of the question, in his luminous style, enforces conviction of the correctness of his position. The contention that the words "high crimes and misdemeanors," as words of art, are to be accepted with a definite, unchangeable meaning is ingenious but not sound. If such position were taken as to other expressions and clauses of the Constitution that might be mentioned it would be binding the hands of the people of the United States by the construction and decisions of a foreign power; in effect, allowing Great Britain, whose authority American valor had just repudiated, to make our Constitution for us. Could it, for instance, be successfully argued that the word "commerce," in the commerce clause of the Constitution, was limited in its construction by the courts of the United States to that definition or within those narrow bounds assigned it by the English courts prior to 1787? Was travel on the English pike or country roads, or shipping on the English canals or rivers, or the more extended voyage by sea in sailing vessels to be the dwarfed interpretation of commerce to which our courts were to be confined? Fulton, Watt, Morse, Edison and Marconi have successfully widened the scope and expanded the meaning of the word, and others doubtless will hereafter continue to do so in the marvelous progress of the world in scientific discoveries. Or, could the power over naturalization, now exercised by the federal courts in bringing within our social fabric representatives of every country of the world, be limited to that narrow basis which was the ancient pride of the Britisher, "Once an Englishman, always an Englishman"? Our own courts have held that the admiralty jurisdiction and bankruptcy, as expressed in our Constitution, were not limited

to the construction put upon them by the English courts, though they may well be considered words of art, but that a broader and more progressive meaning attaches to them. Nor can the words, "high crimes and misdemeanors," be confined to crimes created by statute of the United States. Treason is a constitutional crime, described and limited in the Constitution; bribery is not, and bribery was not a crime against the United States until April, 1790, when it was made such by statute. Surely it cannot be successfully contended that a civil officer of the United States could not have been impeached for bribery between 1787 and 1790; and if impeachable for bribery, not a statutory offense, why might not the same officer be impeached for another offense not a statutory crime? Here, it seems, is invoked too close an analogy between this country and England and a failure to keep in mind that the object and end of impeachment in England and this country are not the same. Under the English system the officer could be removed and the man punished; under our system the man cannot be punished by impeachment proceedings. Under the English system what could not be effected by impeachment could be accomplished by bill of attainder, which is denied under our Constitution. It is evident from the discussions in the Constitutional Convention, and especially from the precedents in our parliamentary history on impeachments that the fathers intended that the judge who was to hold during good behavior was entitled to a trial before his removal; that the English method by address was plainly and emphatically rejected as unfair and unjust, and that impeachment under our system might be had for other misdemeanors than those which had been made such in England or America by statute. To hold otherwise would be to admit that a judge violating every principle of propriety and morality, in his private life, bringing into disrepute and subjecting to contempt the high office which he occupies, could not be reached by impeachment, because the delinquencies of which he was guilty had never been written in the statute book of the country as crimes. If he stole from a litigant in

his court, provided that was an offense under the law, he could be impeached; but if in going from the court house to his hotel he stole from an outsider, he could not be impeached because the offense only affected him in his character as a citizen and not as a judge. If this view is held by any considerable portion of the profession, it is certainly time for the American Bar to arouse itself to its duty in the premises.

Porto Rico.

Porto Rico, the young foster-child of the United States, shows commendable progress in putting on the new garments of self-government. A review of the acts of her recent legislature shows that she is fast adapting herself to her changed condition. During the last session of the legislature a reform school was established "which shall serve for the detention, instruction and discipline, industrial education and reformation of juvenile delinquents." The object stated in the act is to provide "for the youths of both sexes, inmates thereof, instruction in the principles of morality and in those branches ordinarily taught in the public schools; also in the mechanical and industrial arts," etc. To claim the benefit of the act the person must not be over sixteen years of age and have been condemned by an insular court for some crime save that of assassination or homicide, or who may be growing up into mendicancy without occupation, or who may be incorrigible and be accused thereof before the court and proof of the same had in court, whereupon, the court, instead of condemning him to detention in prison or the penitentiary, may order that he be sent to the reform school on a writ issued by the judge under certain requirements of the act. The party shall remain there until he or she reaches the age of twenty-one years; provided, however, that such party may be placed in conditional or definite liberty. The placing in definite liberty of any delinquent in accordance with said regulations shall be proof of his having entirely served the sentence for the crime that caused his detention.

The rate of taxation in the island is fixed by an act at fifteen-hundredths of one per cent. upon the value of all real and personal property in Porto Rico, and by the municipalities not to exceed eighty-five-hundredths of one per cent.

On all distilled spirits produced in Porto Rico or brought into Porto Rico from the United States a tax of twenty-six cents upon each litre or fraction thereof is levied.

Upon all cigars produced in Porto Rico or brought into Porto Rico from the United States a tax of twenty cents upon each hundred or fraction thereof is levied.

The organic act of March 2, 1902, passed by the Congress of the United States, provides that "in no event shall any *duties* be collected after the 1st of March, 1902, on merchandise and articles going into Porto Rico from the United States or coming into the United States from Porto Rico." It may yet be left to the courts to determine whether the tax on liquors and cigars, above stated, constitutes *a duty* which is prohibited.

A license tax is required of all persons engaged in business or trading in the island. The internal revenue agent may enter any building or place, in any part of which any articles subject to taxation are made, produced or sold in virtue of a license duly granted by the treasurer of Porto Rico, but no other buildings used as a residence shall be subject to such entry or search. A penalty is provided for obstructing or hindering such agent in the discharge of his duties. The license taxes seem to be moderate. On a distiller, $25; for a manufacturer of stills, $5; cigar manufacturer, $1; cigarette manufacturer employing machinery, $25; wholesale dealer in distilled spirits, $25; wholesale dealers in cigars or cigarettes, $12; first-class saloons, bars, restaurants, cafés and hotels selling spirits or wines, $7. A severe penalty is provided against any internal revenue agent who fails in his duty by misappropriating funds or in anywise failing to discharge his duties.

An action of unlawful detainer is provided for. Provision is made for a joint committee of the General Legislative Assembly to prepare a system of local or county government in Porto Rico composed of the speaker of the House of Delegates and seven members of the house, together with seven members of the Executive Council. They are to assemble not later than September 1, 1905, and report to the next Legislative Assembly with bills incorporating their recommendations.

Territory of Hawaii.

Hawaii has been prolific in legislation during the past year, and many of the bills passed are of interest to the profession.

To encourage the production of tobacco, rubber, cork oak, manila hemp, sanseveria, salonica hemp and cacao for commercial purposes a law was passed exempting from taxation all property, real and personal, actually used in their production, for a term of five years.

Laws have been passed providing for the displaying of United States flags on school houses and court houses, and also providing for punishing the desecration of the flag of the United States.

Writs of execution and other writs of the circuit courts are made available in all of the circuits of the Territory of Hawaii.

An act regulating the observance of Sunday is of interest. All labor on Sunday is forbidden, except works of necessity or of mercy, in which are included all labor that is needful for the good order, health, comfort or safety of the community, or for the protection of property from unforeseen disaster, or danger of destruction or injury, or which may be required for the prosecution of or attendance upon religious worship, or for the furnishing of opportunities for reading or study. Excepted from this prohibition are newspaper printing offices, steamship companies, railroads, telegraph and telephone companies, hotels, inns, restaurants, cigar stores, ice cream parlors, soda water stands, drug stores, livery stables, hackmen, owners and operators of licensed shore boats, news depots, glaziers and

ranchmen, electric light plants, gas works and slaughter houses; in addition to these exceptions on Sunday the loading and unloading of vessels engaged in inter-island and inter-state or foreign commerce is permitted; and during the entire day milk, bread, food and ice may be sold and delivered; and up to ten o'clock in the forenoon fresh meat, fresh fish and fresh vegetables may be sold and delivered, and laundrymen and laundries may deliver and collect laundry and barber shops may be kept open until eleven o'clock in the forenoon. Athletic sports are also allowed under this act.

The legislature has provided by law for the trial and probation of juvenile delinquents; providing also for the parole of prisoners under regulations and provisions similar to those in the states, and prescribes rules for the commutation of the terms of prisoners for good behavior or meritorious conduct.

The offense of usury in Hawaii is defined to be the receiving of any interest, discount or consideration for or upon the loan or forbearance to enforce the payment of money, goods or things in action greater than two per cent. per month, and it is punishable by imprisonment for a term not exceeding one year or a fine not exceeding $250, or both.

Acts were passed creating counties within the Territory of Hawaii, and providing for the government thereof; and for regulating the practice of veterinary medicine, surgery and dentistry, and for the appointment of boards of prison inspectors, with large powers, to prescribe rules and regulations for the government of all prisoners.

The business of farriers and horseshoers is regulated by law; and provision for a widow's election of dower is fixed by law.

The funding of the bonded indebtedness of the island is provided for by law.

An elaborate act, covering twenty-three pages, was passed regulating the manufacture and sale of intoxicating liquors and providing for the issuing of licenses by the treasurer of the territory in five classes of cases:

(1) To manufacture liquor other than wines for a term of ten years, to be sold in quantities of not less than five gallons;

(2) To manufacture for a term of one year wine produced from grapes and sell the same at the place where such wine is made;

(3) To sell intoxicating liquors for a term of one year in quantities of not less than five gallons, provided that no part of such liquor shall be consumed on the premises where sold;

(4) To sell intoxicating liquors for a term of one year in quantities of less than five gallons;

(5) To sell intoxicating liquors for a term of one year in their original containers in quantities of less than five gallons.

Ample protection is made for the protection of the community from sales to minors, habitual drunkards, etc., and heavy penalties are provided for violations of the law.

Trust companies are made the subject of an act regulating their business, and all insurance companies doing business in the island are required to report the amount of gross premiums received by them during the year ending December 31st next preceding, and to pay to the treasurer a tax of two per cent. on the gross premiums received from all risks located in and all marine business done within the territory.

The Board of Agriculture and Forestry is empowered to make rules and regulations concerning the inspection, quarantining, disinfection or destruction, either upon introduction into the territory, or at any time or place within the territory, of animals, and the premises and effects in connection with such animals, and to prohibit the importation into the territory from any foreign country, or other parts of the United States, of animals known to be infected with a contagious disease.

An income tax of two per cent. is provided on all incomes over and above $1000.

High sheriffs, deputy high sheriffs, sheriffs and their deputies are prohibited from practicing law or acting as attorneys or counselors at law in any case.

Foreign corporations are endowed by law with the same powers and privileges, and subject to the same disabilities, as corporations constituted under the laws of the territory, and have full power to hold, take and convey by way of sale, mortgage or otherwise real, personal and mixed estate in the territory, provided the purposes for which said corporation is constituted shall not be repugnant to any law of the territory.

PHILIPPINE ISLANDS.

The Philippine Commission, by authority of the United States, has enacted a number of laws during the past year for the development of the island; among them, an act appropriating money for the construction of public school buildings; for making permanent annual appropriations for the payment of interest upon certificates of indebtedness and bonds issued by the government of the Philippine Islands; an act appropriating 353,436 pesos for current expense of the municipal government of the city of Manila; and also an act authorizing the incorporation of a Society for the Prevention of Cruelty to Animals in the Philippine Islands. On the construction of, and limitation given to, the word "animals" may depend the scope of this act.

By an act of Congress, providing for the administration of the affairs of the civil government in the Philippine Islands, approved February 6, 1905, the Philippine government was authorized to issue bonds to provide funds for constructing port and harbor works, bridges, roads and other public improvements in the Philippine Islands, with the proviso that the entire indebtedness of said government created by the act should not exceed at any one time the sum of $5,000,000. Section 4 of the act further provides that for the purpose of aiding in the construction, equipment and maintenance of railroads using steam, electricity or other power in the Philippine Islands, as the Philippine

government may hereafter specifically authorize, the said government is empowered to enter into any contract of guaranty with any railroad company organized pursuant to the laws of said government, or of the United States, or of any state thereof, undertaking to construct, equip, operate and maintain any such railroad, whereby the said government shall guarantee the interest of not exceeding four per centum per annum upon the first lien bonds issued by the said company, properly secured by mortgage or deed of trust upon said railroad, its equipment, franchise or other property, real, personal or mixed then owned or thereafter to be acquired, with the proviso that the total annual contingent liability of the government under such grants shall at no time exceed the sum of $1,200,000, and no such grant shall continue for a longer period than thirty years.

Pursuant to this law the Secretary of the Treasury has, by a public document, invited proposals or bids for concessionary contracts or grants with and by the Philippine government in aid of the construction, equipment, maintenance and operation of railways in the Philippine Islands with the following as some of the conditions:

(1) The proposals for such grants will be received only from individuals, citizens or co-partnerships of the United States or Philippine Islands, or from railroad corporations duly organized and existing under the laws of a state of the United States, or the United States or the Philippine Islands and legally competent in every respect to enter into and perform all the terms, conditions, etc., of such proposals; and if the award shall be to any such individual or co-partnership he or it shall, within thirty days thereafter, duly assign and transfer the same to a corporation of the character and qualification above specified.

(2) Proposals for such concessions must be accompanied by checks or certificates of deposit as security that

the bidder will, if awarded a concessionary grant, duly accept and enter into the same.

(3) Under such concessionary grant the right of way through the public lands of the Philippine government shall be granted to the grantee for the construction of such railroad, except such lands known as the "friars' lands" or lands used for other public purposes, and the grantee shall have the right also to acquire by condemnation lands necessary for right of way, etc.

(4) The term of the concessionary grant shall be perpetual.

(5) The grantee shall permit any other railroad to form and establish traffic connections or arrangements with it on fair and equitable terms.

(6) During the construction of said railroad, and until its completion, the Philippine government contracts to protect the grantee in the use and enjoyment of the railroad against the attacks of Ladrones, insurgents, rebels and outlaws.

(7) In lieu of all taxes, of every kind and description, municipal, provincial or central, on its capital stock, franchises, right of way, railroad earnings, etc., the grantee shall pay to the Philippine government annually, for the period of thirty years, an amount equal to one-half of one per cent. upon gross earnings of said railroad, and for fifty years thereafter one and one-half per cent. upon gross earnings of said railroad shall be paid in lieu of all taxes.

A few comments seem pertinent upon this imperfect review of the legislation of our country. What impresses one most deeply in an examination of the legislation of the states is the number and variety of subjects of legislation and the assumption (I will not say always improperly) by the state of functions which in our earlier history were unclaimed by it. We are a

much-governed people, and there is nothing which affects the American citizen, from infancy to the grave, awake or asleep, in motion or at rest, at home or abroad, in his personal, social, political or property rights which is not the subject of regulation by the state. Fish and game wardens regulate where, when and the amount of fish or game that may be taken, and that too though they may be taken from one's own streams or forests. The commissioners of forestry prevent the devastation of timber, and in the public interest limit the amount of timber taken from the land, require the planting of trees in certain places and by inducement or bounty secure the planting of trees in other places. Railroad and warehouse commissioners, under the power of the state, acquire control of railroads and warehouses by prescribing rate regulations and prohibiting the doing of many things deemed unwise by the commissioners. In some states we have internal improvement commissioners, with large powers over the property of the citizen; mine inspectors, with power to make regulations for the owner of the mine, and under which alone can he operate *his own* property; highway commissioners to lay out and beautify and preserve the roads of the state; probation officers to follow the convict or delinquent with a sleepless eye, even after conviction, to see if, perhaps, there may be a spark of virtue, a lump of leaven for his reformation left within his nature; inspectors of cattle; inspectors of sheep; inspectors of bees; inspectors of food; inspectors of weights and measures; inspectors of beef and hides; live stock associations; poultry associations; associations for the conduct of all classes of business; and drainage commissioners, with power to condemn private property for building drains and bridges; boards of charity; boards of equalization; boards of health, of pardons, of prison industries; civil service boards; boards of arbitration, not even allowing a man the right to fight in peace; and after death has come to us our bodies are embalmed under regulations of the state board of embalmers. Then we have factory inspectors; insurance commissioners; boards of dental examiners; bank commissioners; water

commissioners to regulate the use and even the amount of water one may use; boards of pharmacy; state veterinarian surgeons; boards of medical examiners; boards regulating cemeteries and irrigation; and even locomotion by automobiles and bicycles is allowed only after compliance with specific state regulations; while "the kindly fruits of the earth" are ours only when the rules of the state entomologist may permit our enjoyment of them. Indeed, as we look at the whole range of property and social rights, of human wants, necessities and human action nothing is left to the arbitrary, uncontrolled will of the individual. Indeed, whether we eat or drink, or whatsoever we do, we do it all in subordination to the law of the state. The government, as trustee for society, controls our rights, our wants, our necessities and our individual action in their relation to society. The pangs of hunger and thirst, the uses of property and the freedom of individual action are all regulated by their effect upon others, and we realize at last in its fullness of meaning the truth that "no man liveth unto himself." The home is no longer a man's castle, but it may be a prison house with the family as the inmates and the board of health as jailer. When the state as *parens patriæ* steps in and assumes control by boards and commissioners and other agencies, of the safety of society, of the health and morals of the people as well as of their property rights, special care must be taken not to endanger any of those inalienable rights of "life, liberty and property" guaranteed to every citizen under "the law of the land." For it must be remembered that these are rights which do not proceed from government, but are antecedent to government, and are those for the preservation of which governments are ordained.

Another view impressed upon the mind by a review of this legislation is that, while it comes from forty-five states and three territories, organized under different constitutions, a common purpose, a common hope and a common ambition is easily discernible in all for the advancement of their own people and the enlargement of their development under the stimulus of

truly American ideas. In many of the states, separated geographically many hundreds of miles, we find a similarity of legislation, indicating the same needs of these widely separated people; and while it is undoubtedly true that there are certain basic principles of morality and virtue necessary to the proper advancement of all the people, whether under the torrid or arctic zone, I can but feel that there is a danger that uniformity of state legislation may be pressed to a dangerous extreme. We must never forget that law is a progressive science, a system of growth. It does not lag behind or precede in its march the needs and advancement of a people, but it goes hand in hand with them to carry out in orderly fashion the requirements of social needs. When we consider the vast expanse of this country, organized as the people are under different constitutions, with different climatic conditions, with social and ethnic conditions of varying hues; when we find conditions of society among the older states, of necessity differing from those which obtain in the newer, all these tend to show that from habits of thought, social and political customs, commercial activities, habits of life, sources of industry and the sparsity or density of population, the needs of one, as expressed in law, may not be those of another state differing in these conditions.

The Constitution of the United States, "the most wonderful work ever struck off at a given time by the brain and purpose of man," would not be fitted for the Chinese empire, nor even for the Philippines, it is asserted, until in the progress of time, by the process of assimilation, they shall reach the height of the statue of American citizenship; nor would the laws of Draco be other than a misfit if adopted by the State of Rhode Island, in which we are today assembled. While ever striving, therefore, for the unification of laws which embrace essentials in those principles which should control and govern all people, however and wherever situated, we should be careful not to impose upon all those laws which may be suited to conditions in some of the states only. Our motto

should be, "In essentials, unity; in varying conditions, variety," presenting in the result a mosaic, it may be, of infinite variety, like some great orchard of ripe fruit, made up of many different kinds of trees, each extracting from the soil those elements which it needs for its development, and each differing from the others in shape, size, color and flavor, but each beautiful of its kind, and by contrast adding infinite charm to the whole.

I feel that I cannot close this already too long drawn out address without a reference to a remarkable address delivered by that remarkable man, Theodore Roosevelt, before the Harvard Alumni at Cambridge in June last. My justification for a reference to it, I trust, will be found in the quotation which I give from the speech. In speaking to the Alumni, he says:

"This nation never stood in greater need than now of having among its leaders men of lofty ideals, which they try to live up to and not merely to talk of. We need men with these ideals in public life, and we need them just as much in business and in such a profession as the law. . . . Every man of great wealth who runs his business with cynical contempt for those prohibitions of the law which by hired cunning he can escape or evade is a menace to our country, and the country is not to be excused if it does not develop a spirit which actively frowns on and discountenances him. The great profession of the law should be that whose members ought to take the lead in the creation of just such a spirit. We all know that, as things actually are, many of the most influential and most highly remunerated members of the Bar in every center of wealth make it their special task to work out bold and ingenious schemes by which their very wealthy clients, individual or corporate, can evade the laws which are made to regulate in the interest of the public the use of great wealth. Now, the great lawyer who employs his talent and his learning in the highly remunerative task of enabling a very wealthy client to override or circumvent the law is doing all that in him lies to encourage the growth in this country of a spirit of dumb anger against all laws and of disbelief in their efficacy. Such a spirit may breed the demand that laws shall be made even more drastic against the rich, or else it may manifest itself in

hostility to all laws. Surely Harvard has the right to expect from her sons a high standard of applied morality, whether their paths lead them into public life, into business or into the profession of the law, whose members are so potent in shaping the growth of the national soul."

The serious charge made by the President in the above against some of the members of our profession must give us pause; his recognized position in the country in stimulating lofty ideals in life, as well as his recognition of the position of our profession in moulding public sentiment in the country, forces upon us, willingly or unwillingly, as an Association, the inquiry, not only whether the charge be true, but also the broader inquiry whether the ethics of our profession rise to the high standard which its position of influence in the country demands; surely no more important question than this can be forced upon the profession. I am one of those who believe that the profession of the law is more potential for good than any other profession, excepting the Christian ministry, and in some respects more powerful for good than even that high profession. Its power for evil is correspondingly great. My reasons are briefly these:

Many men in this country believe the church a good thing for women and children, but not for men, and that the teachings of the pulpit present only a code of ethics well suited for practice on Sunday, to be carefully folded away in a napkin at the close of the day, awaiting the return of the next Sunday. Indeed many incorrectly believe that most Christian men are possessed of a dual character—a Sunday and an everyday character; that the Christian character is one well suited to the quiet hours of a restful Sabbath day, but wholly unfitted to the strenuous demands of modern business life; and this view finds its analogy in the claim of a class of men who maintain that the necessities as well as the law of politics do not require the rigid application of the same rules of life that are applicable to man as a citizen in his business life; indeed they believe that in this respect men carry about them from day to day

two characters, one political and one personal, the controlling principles of which are widely divergent, and the use of the one in the domain of the other would be regarded as destructive of the other. The difficulty about such a contention (even admitting that such a distinction could be ethically right) is that if a man carries in his *two* pockets, instead of his *one* bosom, two characters of different kinds, the one to be drawn upon in political matters and the other in personal or business affairs, that in the hurly-burly of a strenuous life one is apt to draw upon the wrong character, thereby producing confusion worse confounded, in the blighting of personal character by the application of political methods to personal affairs or in his failure as a politician in the eyes of his companions because of the application of principles which govern his private life to political affairs. "No man can serve two masters; for either he will hate the one, and love the other; or else he will hold to the one and despise the other." To this class of critics of the Christian ministry, and of those who admit the influence of its teachings upon them, in all the walks of life, both secular and sacred, the lawyer appears in a different role, as the minister of week-day ethics as applied to men in their everyday business affairs, as the expositor of justice and right unaided by priestly exegesis or any other sources than those of natural law and justice. In its application to the business affairs of life he is keenly watched by the gaping crowds that gather within the temples of justice as witnesses of the trial of causes, and either in this wise or through the columns of the press he becomes the schoolmaster of the people, the powerful teacher of right or wrong, the unsalaried educator of the public. If by cunning artifice he seeks to conceal the real truth, or by devious methods he seeks to attain immoral ends under legal form, or if for the purpose of obtaining a meretricious success he takes position in favor of an immoral conclusion in its application to the facts of his case, that position finds ready defenders among those already too willing to applaud a principle which, however

base, has for its object the success of the cause. On the other hand, the lawyer who fights his battles in the open, with no weapons save those taken from the arsenal of eternal truth and right, who scorns the temptation to advance a principle for his client or his cause as his own which cannot be defended in the forum of conscience, leaves a lasting impress for good upon those who hear him; and day by day in the shop, on the street, in the market place and around the family hearthstone the discussion continues which quietly but effectively forms a part of the character of the community in which he lives. Some years ago a venerable citizen of my own county said to me that he regarded the death of Colonel John B. Baldwin, a distinguished lawyer of Virginia, as a great blessing to Augusta County. Knowing his devotion to Colonel Baldwin, I was shocked at the statement. Asking an explanation, he said, "Such was the confidence of his people in Colonel Baldwin's absolute integrity and truthfulness that I do not believe that in the trial of a case in the courts of this county a man who was unfortunate enough to have Colonel Baldwin against him could get justice before a jury." What a monument to a great lawyer!

Indeed, I go further and claim that the character of any people in a community, public and private, in their maintenance of public and private obligations, in the upholding of the law and in all that pertains to the duties and obligations of citizenship is largely determined by the character of the Bar of such community.

When we consider the intimate and confidential nature of the relation of lawyer and client, the need of proper counsel by the client, who must lay bare his heart and mind in full disclosure of the inmost secrets of his business; when we remember that they do not deal at arm's length, but that the lawyer, from his training and learning, is familiar with all the intricacies of the law in its application to any state of facts, and that in the adoption of one or the other course presented the client, without the latter's knowledge,

may be led into paths of peace or destruction. As we recall the great temptation to the lawyer to take that course which may lead to the largest remuneration to himself, but with the least to his client, a temptation as great today in America as in Rome when described by the poet in the line,

"*Lucri bonus est odor ex re qualibet,*"

and when we think of the delicate distinctions in the law, which cause even the most scrupulous counselors to doubt as to the safe and proper mode of procedure, which makes it possible for a lawyer to cover his tracks in the accomplishment of his wicked ends, if he be so inclined, we are forced to the conclusion, however important it may be to the country, that our lawyers should be learned in the law, that this great desideratum is as nothing compared with the demand that the lawyer should be saturated with principles of genuine honesty; and without disparaging the one, but upholding it with earnestness, I dare venture to assert that the real need of America today in the transaction of private business and in the moulding of a lofty, public sentiment is the high-toned, honorable, conscientious lawyer.

No more difficult question can be presented to this Association, or to those auxiliary associations in the different states, than that of purging its membership of the unworthy member who brings dishonor upon the whole profession. Instances of irregularity and dishonesty will only be known to those of the local Bar where the derelict conducts his immoral practices; personal, social and even political ties render it trying and embarrassing to bring the guilty to justice, but if our profession is to receive the reward which is its just due, and is to accomplish the high aim for which it is destined, this work must be undertaken and carried out fearlessly and thoroughly. This is one of the many questions to be considered in the education of the lawyer, and like all other questions which affect morality and ethics, can best be accomplished in the very beginning of the study of the law, when character is unformed and "like clay

in the hands of the potter" by the hand of a master may be moulded for good; and I venture to suggest that no plan can be adopted more productive of good results for the profession in this direction than the adoption in all schools of law which are preparing young men for the profession of an enlarged and comprehensive course in the subject of "legal ethics" to be taught (as the President has well declared in the address above referred to) by "men of lofty ideals, which they try to live up to and not merely to talk of."

I make bold to venture another suggestion for the same purpose that the system, known as the honor system, be speedily adopted in every law school in America. A system by which the young man at the very beginning of his legal education is brought to realize that in the crucial test to which he is subjected by examination for graduation he is not to be watched as a suspect or guarded as a felon, but he is to be allowed to work out his own salvation and his own examination with a simple reliance by those in authority, on his pledged honor, that it will be done without assistance from any source. If at the very threshold of his professional education, and all through it, for three years, he realizes that a system of espionage is necessary to keep him from doing wrong, and that adopting the Spartan idea he may be guilty of any theft, if only he omits the sin of detection, what must be the effect upon him when that system is withdrawn and he is ushered into the broad fields of his professional life, with no one then to watch him in his dealings with his client and with no eye upon him except the Eye that never slumbers nor sleeps? Can a man be trusted to meet the temptation of professional life, without a watcher or a spotter, who is impliedly told by the presence of such during the progress of his education that such an officer is needed to insure unaided returns upon examinations? The honor system does not work perfection; the incorrigible may still escape its ennobling influences, but the very willingness of the authorities to adopt such a system, of itself stimulates the weak and strengthens the strong; and

wherever this system has been adopted it has worked like a charm, in creating a manly sentiment of honor and integrity and a corresponding scorn of chicanery and deception, not only during the period of examinations, but in all the paths of college life, and while occasionally some are found to violate its rules, they are, under the system, summarily dealt with by the student body without the aid of or even consultation with the faculty, and are thereby compelled to leave the institution in disgrace, while their punishment and their example tend to deter others who may be weak; and surely it is far better that those who are incapable of appreciating the high position of trust and confidence that the lawyer must occupy to the public should at the beginning of life be excluded from the profession rather than be allowed, through a long life, to plunder and despoil confiding clients.

May heaven avert the calamity of our young men entering the profession with public sentiment, or the sentiment of the Bar upholding or excusing a condition of public and private morals so powerfully satirized by the pagan poet:

> "*Rem facias, rem si possis recte, si non, quo cunque modo rem.*"

My closing appeal to the representatives of the American Bar Association, who stand forth clothed in priestly robes, as ministers at the altar of justice, is for the vindication of the claim that the profession of the law is the most ennobling and powerful for good of all the secular professions. With our loins girded and our lamps burning, our Association by keeping alive the fires of professional purity upon her altars may, in working out her future destiny, add to her proud achievements in the history of our beloved country still richer trophies in the progress of our noble profession.

THE AMERICAN LAWYER.

ANNUAL ADDRESS BY

ALFRED HEMENWAY,

OF BOSTON, MASSACHUSETTS.

Mr. President and Gentlemen of the American Bar Association:

We are told that in the United States there are more than one hundred and fourteen thousand lawyers, each of whom, as a part of the ceremonial of admission to the Bar, has taken the oath of allegiance and that other oath of impressive solemnity, the attorney's oath, whereby he invokes God's help that he may do no falsehood nor consent to the doing of any in court; that he may not wittingly or willingly promote or sue any false, groundless or unlawful suit, nor give aid or consent to the same; that he may delay no man for lucre or malice, but that he may conduct himself in the office of attorney within the courts according to the best of his knowledge and discretion and with all good fidelity as well to the courts as to clients.

That he has a good moral character must appear to the satisfaction of the court. With zealous care justice guards her portals.

On admission to the Bar each becomes an officer of the court. It is the "office of attorney" to which he is admitted. His tenure is for life or during good behavior.

Thus accredited and so consecrated, he enters upon the practice of the law whose code of morals finds fit expression in the memorable words of the "Institutes": "*Juris præcepta sunt hæc: honeste vivere, alterum non lædere, suum cuique tribuere.*" "These are the precepts of the law: to live honorably, to injure nobody, to render to everyone his due." This is the golden rule of the civil law. Its terse utterance

is the law's practical rule of conduct. Its generality does not make it valueless. It is like the cardinal points of the compass.

The Bar is a part of the court. "It is believed," said Mr. Justice Miller in Garland's case, "that no civilized nation of modern times has been without a class of men intimately connected with the courts and with the administration of justice, called variously attorneys, counselors, solicitors, proctors and other terms of similar import. . . . They are as essential to the successful working of the courts as the clerks, sheriffs and marshals, and, perhaps, as the judges themselves, since no instance is known of a court of law without a Bar." And Mr. Justice Field, in the same case, said: "The attorney and counselor being, by the solemn judicial act of the court, clothed with his office does not hold it as a matter of grace and favor. The right which it confers upon him to appear for suitors and to argue causes is something more than a mere indulgence, revocable at the pleasure of the court or at the command of the legislature. It is a right of which he can only be deprived by the judgment of the court for moral or professional delinquency."

The lawyer can be removed from his office by no act of the legislature, for disbarment must be a judicial act.

The great lawyers of Rome were the real interpreters of the law. They furnished the knowledge of the law to the prætor. So it has ever been that in great measure the learning of the court is the learning of the Bar. The opinion of the judge survives; but the arguments of counsel are forgotten. The fame of the judge lives in the memory of succeeding generations. The reputation of the lawyer is fleeting. His name is writ in water. Pemberton Leigh refused to be solicitor general, a puisne judge, a vice chancellor, and finally declined the high office of lord chancellor and a peerage. Who remembers him now?

And yet many an opinion of light and leading is but the recasting of the brief which is forgotten. Webster's argument moulded the opinion of Marshall in the Dartmouth Col-

lege case. Goodrich's argument is incorporated in the opinion of Mr. Justice Bigelow in the Brattle Square Church case, an opinion involving the rule against perpetuities as applicable to an executory devise, and of which an associate of Chief Justice Shaw said even Shaw could not have written it. Of this opinion it has been said that in it "the law assumes the beauty and precision of the exact sciences."

As long as there is a belief in immortality, as long as there is physical infirmity, as long as justice dwells on earth, so long will flourish the three learned professions, for so long must soul, body and estate be ministered unto; and not the least is our profession dedicated to law and consecrated to justice.

Law is permanent but ever changing. As a city grows, its streets and byways multiply, but its original highways remain, and the law of the road is applicable to the old and the new ways, subject to the modification which increasing use and utilities make inevitable. The *reasonableness* of the law is applied common sense, and common sense has been admirably defined as "an instinctive knowledge of the true relation of things."

In a eulogy of Chief Justice Shaw, Benjamin F. Thomas, an able lawyer and his associate upon the bench, cited the case of Commonwealth *vs.* Temple (14 Gray, 69) as one of the great opinions of the chief justice, whose primacy in the judiciary of Massachusetts was never disputed.

The opinion is brief. It is of interest to the lawyer as illustrative of the application of common sense to legal principles.

It was in the infancy of horse railroads. A corporation was chartered to construct a railroad. A section of the statute provided for the punishment of any person wilfully and maliciously obstructing the passing of cars on its tracks. The defendant, with a heavily loaded team, was driving on the public street in front of a horse car. Requested to turn aside, he did not, but continued thereon for some rods before turning

off. For this seemingly trivial act, the defendant was indicted and convicted, in spite of his contention that the exercise of his right to use the way as before was not malice, and that the right of the corporation was subordinate to the existing rights of travelers.

The opinion admirably states the great merit of the common law in "that it is founded upon a comparatively few broad general principles of justice, fitness and expediency, the correctness of which is generally acknowledged and which at first are few and simple, but which carried out in their practical details and adapted to extremely complicated facts, give rise to many and often complexing questions; yet these original principles remain fixed and are generally comprehensive enough to adapt themselves to new institutions and conditions of society, new modes of commerce, new usages and practices, as the progress of society in the advancement of civilization may require." The right of each traveler on the highway must be exercised with a due regard to the rights of others. The teamster was bound to turn out because the car could not.

Thus our customary law grows with the growth of society. Judge-made law keeps step with invention. The reports are, in truth, the chronicles of the time. The business, the crime, the habits of life of each generation are recorded in their pages. In them we trace our growth. They are full of human nature, not always at its best, but often in its abnormal development. The physician treats the maimed and diseased; the clergyman's work is among sinners, and the lawyer deals greatly with that which is new or abnormal in business or conduct.

Lord Mansfield tells us that "the law does not consist of particular cases, but of general principles which are illustrated and explained by those cases." But its practice does consist of particular cases. Special cases increase with the general complexities attendant upon the growth and development of society.

Compare a volume of the reports of the current year with

a volume of forty years ago of the same court, and the comparison shows the increasing complexity of our everyday life. Compare the 90th volume of Massachusetts Reports (8 Allen), 1865, with the 187th volume of Massachusetts Reports, 1905. The new subjects of litigation not found in the earlier Report are:

Automobiles,
Bankruptcy,
Parks and Parkways,
Boxing Matches,
The Civil Service Law,
Dynamite,
Elevators,
Elevated Railways,
Employers' Liability Act,
Grade Crossing Acts,
Liability Insurance,
Water Rates,
Obligations Redeemable in Numerical Order, and
The Negotiable Instruments Act.

Each of these subjects is prolific in litigation. The law is never at rest. It is in constant development.

It is interesting to note in the earlier report that a corporation is plaintiff in fifteen cases, and is defendant in an equal number; while in the latter volume a corporation is plaintiff in only ten cases and is defendant in sixty-four cases. Surely corporations have a legitimate page in their accounts for legal expenses.

The law is a science, and in the picturesque words of Lord Nottingham, called the Cicero of the English Bar: "The sparks of all sciences in the world are taken up in the ashes of the law." Magnificent as are the praises of the law, the law by itself is like a beautiful statue, whose exquisite proportions excite unbounded admiration; but the marble is cold and lifeless. It is a work of ornament and delight. But it is only beautiful. Law as law is theoretical and Utopian. But

it is the *administration* of law with which the lawyer is most concerned. To Cromwell the law was "a tortuous and ungodly jungle." But to the lawyer the whole body of the law is the considered wisdom of all time. To him its history, its development, its learning, its adaptation to all the mutations of time and chance are a source of ever-increasing admiration. He looks upon the law as the handmaid of justice, in whose temple he is a minister. It is a living force. It is the preservative power in civilization.

The lawyer has a pride in his profession. He knows the traditions of the Bar. The great men whose names are inscribed on its rolls are to him the real heroes of history.

All knowledge is the province of the lawyer. This versatility was admirably illustrated in the argument of the telephone cases. On the way to the capitol on the day of the argument, a scientist walking with Chief Justice Waite said to him: "I don't see how any tribunal of judges can understand the scientific questions involved in the case." After hearing the argument of the late Mr. Storrow he said: "*Now*, I don't see how the court can fail to understand the scientific questions involved." So clearly had the lawyer with trained accuracy stated the matters in controversy.

We are glad to remember that D. Appleton White and John Pickering, two Massachusetts lawyers, one a judge of probate, the other city solicitor of Boston, prepared an edition of Sallust for publication a hundred years ago. It was the first classic, not a mere reprint, published in the United States.

The lawyer, as a part of the court, is a part of the government and interested in its prosperity. We are a great people, and notwithstanding the hysterical complaints that find vent in the daily and periodical press, a well-governed people. Well housed, well fed, well clothed, with an open schoolhouse and a free altar, on this earth there is no nation where the skies are bluer and the grass greener, the people more contented or with a brighter future than in the United States of America in this very year of grace. All

about us are unmistakable signs of material, intellectual and moral prosperity. The people are free; the ballot is in their hands, and *they* are the government. By them officers are elected and measures enacted. There is rotation in office and laws are subject to change. All action is temporary. The will of the people is the thought or the whim of the hour. That which is permanent is the inherent power of the people. That abides; all else is transient. If the law of today be unsatisfactory, tomorrow it may be changed. There is nothing sacred in a statute. Its enactment and repeal are but the expression of the hour. While the statute remains it is the supreme law. In its impartial execution is the whole safety of our government. Only in the courts can the honest administration of the law be determined. Their judgment is the final arbitration.

The stability of the court does not lie in its power. To the lawyer it may be a source of admiration that the people bow to the authority of the court when a law is declared unconstitutional. But it must be remembered that such a decision always sets at naught the will of the majority. The majority is conquered, but retains its "unconquerable will." It yields, because of its belief in the integrity of the court; it yields, because, although failing in its special exercise, its power still remains.

Every declaration of unconstitutionality is a test of the loyalty of the people to the majesty of the law. The acquiescence of the people is a magnificent tribute to the judiciary. Why do the people pay this tribute? It is trite to say that it is because of the acknowledged power of the courts vested in them by the Constitution. The Constitution rests upon public opinion, and in matters pertaining to law, public opinion rests upon the opinion of the Bar, and the Bar recognizes and sustains the authority of the court. The judiciary is the strongest department of our government. It is the most permanent. It has amplified its power and jurisdiction. It was never stronger than today.

Commercialism is a threadbare topic of universal discussion. Its existence is assumed, and all activities are believed to be influenced by it. We hear on all sides of the materialism and commercialism in all things, and the sad inference is drawn that the pursuit of wealth is now the sole object of life; that the rich are growing richer and the poor poorer. It is a clever phrase and catches the open ear of the thoughtless. To the thinker it is idle. It is true the material prosperity of our country has marvelously increased during our lifetime. In this prosperity all have shared. We have better houses, better furniture, better food, better schools and colleges and libraries and churches; better roads and parks; better hospitals and asylums, better public buildings. If this generation be chargeable with avarice, it is rather rapacious than tenacious. Never was wealth held with a more generous hand. The claims of humanity are acknowledged. Never were the poor and needy better watched over and cared for than today. Never did the child born into the world have a better opportunity for health, growth, education, comfort and culture. Never did the law reign more supremely or more benignly. Never before could a President of the United States suggest peace to belligerent nations; one elated by continuous successes, the other wounded by unexpected reverses, and receive the thanks of each and the gratitude of the world. We are told the dove that went forth from the ark returned, for it found no resting place. The letter of the President found a resting place in the heart of humanity. If there be commercialism in all these things, then, indeed, is it robbed of its sting.

It is an old cry. John Adams in 1776 wrote bitterly of the corruption of his time, of its rapacious and insatiable venality. He was ashamed of his age. Fisher Ames in 1802 said of the Boston Bar: "I know of no very promising young men coming forward." In Jefferson's day all Federalists *believed* the country ruined; in Jackson's day the Whigs *knew* the country was ruined; and in the days of the Mexican War rascality and fraud were rampant. Lord Ken-

yon, the successor of Mansfield, arguing for the right of testamentary disposition of property, declared if disappointed in that, "the great and main pursuit of men in society was disappointed."

The outcry against monopolies was raised by Aaron Burr when Alexander Hamilton procured a charter for the Bank of New York. It caught the people, and he was elected to the legislature. In turn he procured a charter for a water company with powers so broad that the Manhattan Bank was incorporated under its provisions.

We are not degenerates. Today is better than yesterday. The people are honest; their instincts are right. They are slow to believe in the corruption of those in high places, but once believing they always "turn the rascals out."

There is no new crime under the sun. The love of money, the peril of the rich, hypocrisy and all forms of vice have flourished since recorded time. The decalogue is not new. The story of Eden is short.

Goldsmith, whose revels irritated Blackstone, while writing those Commentaries which are still classic in spite of modern criticism, truly wrote:

> "Ill fares the land to hastening ills a prey
> Where wealth accumulates and men decay."

Wealth *is* accumulating, but there is no moral, intellectual or physical decadence in the American people.

We are told that commercialism has permeated the learned professions. Is it true of the ministry? Are the clergy less charitable, less earnest, less learned than a generation ago? Are not these tests? Is it true of the medical profession? The discoveries of modern science, the numerous dispensaries and hospitals, where the best service of the most skilled is rendered gratuitously, the care of the sick and wounded, the attention to sanitation, the care of the feeble-minded and insane, the exactness of modern medical learning as compared with former generalities, leave no room for the charge of degeneracy. As to the legal profession, its learn-

ing is broader and deeper than ever before, its ethics more exacting.

The quaint advice of Jeremiah Gridley, born two hundred years ago, and sometimes called the father of the Boston Bar, is still followed. "Pursue" he said, "pursue the *study* of law rather than the *gain* of it; pursue the gain of it enough to keep out of the briars, but give your main attention to the *study* of it."

No longer does a priest inform the king's conscience in matters of equity. It is the composite conscience of the people as interpreted by the court that now dictates its decrees. Equity acts by injunction, and so the *ad captandum* phrase, originated by Governor Altgeld, "government by injunction," has found its way to the platform—a phrase containing a half truth, and to the layman, ignorant alike of legal principles and the administration of law, full of ill omen. He forgets or never knew that equity came to ameliorate the hardship of the common law. He has never learned that a system of procedure which can deal only with past infractions of the law and is powerless to prevent future infractions is unworthy of civilization. Equity stays unaccomplished fraud. He thinks with Selden that equity is a "roguish thing." But every lawyer knows better. He knows that equity is merciful. Daniel Webster admired "the searching scrutiny and high morality of a court of equity."

To join in the outcry against government by injunction is in the lawyer a violation of his oath. It is not fidelity to the courts; it brings discredit upon them and excites mob law and anarchy. It makes the law-abiding discontented. They confound liberty with license. Mistaken in their interpretation of its meaning, they believe that resistance to an injunction is obedience to God. In the name of liberty they become rioters. If 114,000 lawyers in the United States were to refrain from abusing injunctions, and each according to his knowledge and discretion should strive to teach the people that the doctrines of equity are for the common good, it would

in these days of agitation immeasurably promote that "general welfare" for which the government was established.

Trial by newspaper is infinitely more harmful than government by injunction. In our Constitution there is no prohibition more pronounced than in relation to bills of attainder. Article 1 prohibits the passage of bills of attainder, in section 9 to Congress and in section 10 to the states. It is followed by a provision as to the judiciary "that no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted." Now, in English law, what had been the character of acts of attainder? Mr. Justice Miller in Garland's case, said:

1. They were convictions and sentences pronounced by the *legislative department* of government instead of the judicial.

2. The sentence pronounced and the punishment inflicted were determined by no previous law or fixed rule.

3. The investigation of the guilt of the accused, if any such were made, was not necessarily or generally conducted in his presence or that of his counsel, and *no recognized rule of evidence governed the inquiry.*

Most of these are the peculiar characteristics of trial by newspaper. It is as lawless as the shameful trials of the witches in Massachusetts in 1692, concerning which it should be always remembered that the judges were none of them members of the Bar. It was a quasi-ecclesiastical court. Its ways were not our ways.

Publicity is the cry of the newspapers. But there is a right of privacy. In matters of personal concern that decent respect for the opinions of mankind set forth in our great Declaration has no application. The court room, and not the newspaper, is the forum of the lawyer.

The lawyer, as an officer of the court, should be temperate in language. He should recognize the responsibility of office. Superlatives are for the weak, for those limited in observation and experience. The writings of Abraham Lincoln, a typical

American lawyer, are splendid models of temperate language. His words, as well as his acts, were tempered with wisdom.

With the privileges of the profession go its responsibilities. Unconsidered words spoken by one in authority have a borrowed and fictitious value. The lawyer is not debarred from fair criticism, but indiscriminate abuse is not criticism. Criticism is an act of judgment. A common scold is not a critic.

The literary style of lawyers and judges is, oftentimes, the subject of popular sarcastic comment. But Noah Webster, in the preface to his dictionary, in the edition of 1828, referring to the legal decisions of the Supreme Court of the United States and of some of the particular states, says their style "in purity, in elegance, and in technical precision is equaled only by that of the best British authors and surpassed by that of no English compositions of a similar kind."

Of the judicial style of the opinions of Chief Justice Bigelow in the Massachusetts Reports, the late Judge Curtis said he knew of no better models in any law reports.

Chief Justice Shaw had the bluntness of Ellenborough in interrupting counsel. He had the unconscious insolence of conscious strength. He disliked Rufus Choate's voluminous vocabulary. Once, when with great redundancy the eloquent advocate had stated his contention, the chief justice asked him to repeat his proposition. Choate hesitated for an instant and then complied, with even more picturesque elaboration. "You mean this," said the chief justice, compressing the statement into the baldest terms. "Yes, your honor." "Then, why didn't you say so?" "I should, had I your honor's felicity of diction," was the unruffled reply.

Diffuseness and prolixity are the perils of the lawyer. Chief Justice Parsons, like Scarlett, said that "a half hour was long enough in which to argue a case to court or jury." He was marvelously concise. Of him Story said: "His words are gold." Sir James Scarlett, being asked why he never addressed a jury more than a half hour, replied: "It takes just thirty

minutes to lodge an idea in a juryman's head. The average juryman's mind can hold but one idea, consequently if I succeed in putting a second idea there I only dislodge the first."

A great principle was laconically expressed in a single sentence by Marshall in American Insurance Company *vs.* Canter (1 Peters 511, 542): "The Constitution confers absolutely on the government of the union the powers of making war and of making treaties, consequently that government possesses the power of acquiring territory either by conquest or by treaty."

Thus was the whole doctrine of expansion of territory and the elasticity of the Constitution embraced within the limit of thirty-four words.

Language is uncertain. Few legislators are trained philologists. Chief Baron Pollock said: "Judges are philologists of the highest order." In the transmutation of thought into language, words with but one meaning can seldom be used. So it happens that a great part of the proverbial uncertainty of the law arises from the language used in contracts, opinions and statutes. Herein lies the necessity of construction. "One-half of the English language," said Baron Alderson, "is interpreted by the context." In this, as in all matters, the court is the final arbiter. Every statute is interpreted in the light of surrounding circumstances. The state of the law, like the state of the art in invention, is to be considered. The existing statutes and their judicial interpretation throw light on the new enactment. The meaning of the statute involves not only the words used, but the spirit of the law. If the words fail to express the spirit of the enactment, the intention of its framers fails. The lawyer who detects flaws in a statute is no more responsible for such flaws than is the physician who diagnoses a disease responsible for the bodily ailment of his patient. To the physician it counts for skill. The more latent the cause of the malady the more honor is paid to the skill that discovers it. How is it with the lawyer whose skill and learning give an

unexpected but accepted interpretation to a statute? Does he win a crown?

What says the layman? Ignorant of the province of the lawyer, ignorant of the meaning of those grand words written indelibly in the Constitution of Massachusetts, words which Governor Andrew could never repeat without a thrill—"To the end it may be a government of laws and not of men"; ignorant of the rules of logic, he draws the impotent conclusion that the lawyer advises his client how to break the law. Is it possible to suppose that there is need of legal advice to learn how to break a law? Any tyro can do that. But to know what the law means, what offense is forbidden, is not only the right and duty of all men in every capacity, but it is a knowledge imputed by the law, and ignorance of which excuses no one. The doing of that which is not within the scope of a statute is not its *evasion*. It is neither circumventing nor overriding the law; it is the exercise of an undoubted right. It is the duty of counsel to determine the scope of a statute.

Judge Story once drafted an act passed by Congress, which afterward came before him for construction. He decided that the act had a different meaning from what he had intended in its drafting. His words failed to express his intention. After the passage of an act, the words become the words of the law and are to be construed by accepted canons of construction.

The widespread, popular criticism of the lawyer for his part in the construction of statutes has no foundation in reason. The duty of the lawyer is self-evident, and in its performance he violates no rule of law or code of ethics.

It has been recently stated by one who has a wide experience on the Bench of the Superior Court of Massachusetts that "the provisions of the statutes relating to employers' liability furnish grounds for probably one-quarter of the civil jury cases tried in court at the present day." This percentage is not normal. Such litigation smacks of maintenance. It suggests a reason for other states to follow the precedent of Alabama,

where a statute was recently passed making it a misdemeanor for an attorney to employ runners to solicit practice, and requiring the public prosecuting officer, upon complaint of the Council of the State Bar Association, to institute proceedings for any violation of the statute. This statute is noteworthy, inasmuch as it makes criminal what before was dishonorable and unprofessional. A rule of ethics becomes a rule of law. It is a warning to the ambulance chaser. It is a statutory acknowledgment of the dignity of the legal profession. It is a happy sign.

The question is mooted in current literature whether a lawyer by virtue of his retainer may violate his duty as a citizen. It is a question raised by the laity. It is not discussed in the profession. In the courts there is a settled practice not to hear counsel argue "against a first principle respecting which there has never been any doubt." So this question is not arguable. No lawyer today accepts Brougham's impassioned declaration of the duty of counsel to his client.

The oath of allegiance takes precedence of the attorney's oath. Patriotism is the first duty of every citizen. Civic pride is above personal emolument. The government is more than the client. History shows that the advances of freedom and public rights have been promoted by lawyers in all times. In the time of the civil war in England Sir Orlando Bridgman and Sir Geoffrey Palmer, retiring to the seclusion of the study, betook themselves to conveyancing and invented resulting trusts and springing uses. They are not the ideals of the American lawyer.

Philosophy and oratory were the preparation of the Roman lawyer. Today the fifteen thousand students in the United States preparing for admission to the Bar in more than one hundred law schools do not find these studies a vital part of the curriculum. And yet says Sir Henry Maine: "Roman law is the source of the greatest part of the rules by which civil life is still governed in the laws of the western world." Another has said Roman law is written reason. "Here,"

said Hilliard, standing amid the ruins of the Forum, "Here law had attained the dignity of a science while yet the Druids worshiped the mistletoe on the site of Westminster Hall."

Integrity is an inherent part of the lawyer. Without seeming honest he cannot succeed; and the only way of seeming honest is to be honest, for in the words of Lord Chancellor Napier: "There is an idiom in truth which falsehood never can imitate."

The law is a laborious profession. When Prescott published his "History of Ferdinand and Isabella," Daniel Webster spoke of him as a comet which had blazed out upon the world in full splendor. And Franklin Dexter, then a leader of the Boston Bar, said: "It has made him famous; and yet I have spent more time and labor on cases that are now forgotten than Prescott has bestowed on his history."

The lawyer is not a popular favorite. In literature and on the stage his foibles are depicted. Happily there are no lawyers in Dante's "Inferno." Of all men, he is most independent. It is human to dislike superiority. Brougham's assumption of universal knowledge aroused personal antagonism. Even Wordsworth's gentle pen was turned against him. In a pamphlet opposing his election to Parliament, the poet wrote of his boasted independence, "Independence is the explosive energy of conceit making blind havoc with expediency."

Of all men, he is most trusted. "I dislike the American people," said a foreign visitor, "but the individuals I have met are most delightful." Implicit faith is placed in the individual lawyer. It is not alone the great men who give character to a profession. In a profession it is the individual that counts. Each is a unit of energy.

Our government is a government of lawyers. Among a free people the lawyer is always in the ascendant. A written constitution is his protecting shield.

Our roll of great lawyers is long. Yet I cannot forbear a word of eulogy of him who was foremost in the work of our

Association, James Coolidge Carter. He was the ideal lawyer. He lived honorably; he injured nobody; he rendered to everyone his due. Always in the zone of conflict, there was no stain on his fair fame. Living, he was the leader of the Bar, and when he died there was universal mourning.

Of Governor Russell, Professor Norton said: "He died in a fair hour; he escaped old age." Our brother died in a fairer hour; he reached old age. He lived to fulfil the promise of youth and died in the fulness of time,

"Wearing the white flower of a blameless life."

GOVERNMENT BY THE PEOPLE.

BY

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Though we read fables of the Golden Age, or of an Eden of blissful innocence, with its Chaldean legend of a "fall," we may accept the theory of man's evolution from absolute savagery, by a long, slow and painful progress, to his present state. Authority may have been purely paternal in its beginnings, until evident advantage of union for promotion of his interests, or perhaps a merely inherent tendency, resulted in gregarious habit, which necessarily modified parental authority and led to the concession of leadership to manifested superiority, physical or mental, in individuals.

More complete attainment of his needs would be accomplished by union of families, having something of stability, which, necessarily weakening the authority of each parent, naturally led to substitution of the authority of superior individual members, until some conception of organized government became realized.

With such an origin, its functions would naturally, I think, be purely militant. Every tribal home was an armed camp; every man was a warrior, whose sole business, aside from the mimic warfare of the chase, was to defend against the assaults of all other tribes or to attack other tribes in turn, for plunder, slaves or wives, to drive them from coveted territory or reduce them to submission; civilization was purely selfish; and, except as restrained by demands of the public safety and success, might alone was recognized as right. In a state of society where the enjoyment of wife or children, goods or shelter, personal safety and life itself was determined by the single test of superior force, where all mankind, without the pale of its own organization, was not only regarded as—but,

in the truest sense, was—a dangerous enemy, all forms of altruism, in principle or practice, were a manifest absurdity—a practical impossibility.

Doubtless one of the most striking results of this "strenuous life" was the development of mental power. Men gradually recognized the value of superior knowledge and judgment and saw that the weak was able to prevail by intelligence and foresight, by argument or even simple persuasion, where his physical strength would be hopelessly inadequate. Experience, discipline and exercise broadened and quickened the mind, until it became known as the greater power, by whose strange influence the feeble enslaved the strong, one governed the lives and controlled the destiny of thousands and a pale thinker laughed to scorn the threat of armies. The mystery of life, which has impressed man, in every condition and time, with a belief that some invisible and resistless force shapes its course, was also made available for intellectual supremacy, and various forms of religion became agencies of domination over human conduct, until priestcraft was more influential in human affairs than military prowess or the most astute kingcraft.

But intellect knows neither pity nor remorse. To it justice is folly; benevolence, a crime against its own well-being; self-sacrifice, simply self-destruction. It teaches men to despoil their fellow men of all that is precious and dear by force or fraud. It teaches nations to drive out or enslave weaker nations and occupy their lands. It knows nothing of brotherhood except the brotherhood of leagued oppression; nothing of right but the right of the strongest; nothing of good but the careful cultivation of its personal advantage. Since the beginning of history the chief business of man has been war—wars, for the most part, of greed, of hate or of pride. And can you show that his intellectual powers have ever rebuked them—have not always instigated and sought to justify them? Perhaps no more perfect example of pure mental force was

ever seen upon our earth than is shown in the career of Napoleon Bonaparte, and perhaps no other man has existed so utterly heartless.

Whence come, then, the manifestations of justice, benevolence and self-denial, of which life gives so many and such beautiful examples? From the fact that there is, as a fundamental attribute of our natures, to use the words of Dr. Hickok, "to each an inner world of conscious prerogative . . . from which comes forth perpetually the imperative that every action be restrained by that which is due to its own dignity. It is this consciousness of the intrinsic excellency of spiritual being which awakens the reverence that every man is forced to feel when he is brought fairly to stand alone in the presence of his own spirit. . . . From its approbation comes self-respect; from its disapprobation, self-contempt. A stern behest is ever upon him that he do nothing to degrade the real dignity of his spiritual being."

In the development of this "excellency of spiritual being" is found all moral worth; the only real good and true content. It is the one factor of civilization which relieves it from being a meaningless riddle and saves it from the degradation of a selfish struggle for transient and unsatisfying rewards. If, then, we find any improvement upon the old in our civilization, it is in the steadily increasing prevalence of its influence and appreciation of its results as the best of human achievement. By this alone is man differentiated from "the beasts that perish." These also have mind and use it to promote their safety and pleasure; to achieve empire over their fellows; to subdue and enslave other beasts and extend their rule over broader fields, just as do men. This spiritual excellency is known to us intuitively to be the sole foundation of all true success; and the philosophy of this fact would seem to be that, as we can imagine no Supreme Power worthy of our respect, not to say worship, whose activity can be other than unceasing bestowal of Himself, so something of what we call divine within us seeks its expression in a like self-bestowal, in which

we find the satisfaction of our highest nature—the only possible basis of self-approval and content.

It may well be assumed, however, that the environment of primitive man made necessary to his rise in the scale of being—indeed, to his existence—devotion of his whole mind to increasing and confirming his sovereignty over the realm of nature, and that the development of his powers involved subjugation of weaker men or weaker nations, much as the wonderful strength and cunning of a tiger have resulted from numerous generations of tigers exercised in the capture and destruction of their prey.

We need not doubt that the beginnings of government among men sprung from and were moulded by purely utilitarian motives. Whether in a chief, whose personal prowess subjected others to his rule, or in the tribe, which recognized the value of combined and organized resources, disciplined under an accepted leader and exerted through a single will, or in the complicated and elaborate machinery for administration of a great nation—be the form militant or industrial—efficiency and power resulted from intellectual forces and sought no other ends than spreading dominion, increased wealth and gratified ambition. The controlling impulse was selfishness; and pure selfishness was, doubtless, a most certain agency for securing these ends.

For this reason, the principal business of men and nations has been conquest, and war has needed no apology or excuse, since it was considered the noblest form of human activity and its successful prosecution the highest evidence of human virtue.

In this great employment of mankind, unceasingly pursued for so many ages, all recognized the value—indeed, necessity—of absolute submission, by tribe or nation, to a single will, whose commands should always, instantly and unhesitatingly, receive perfect obedience. And this theory of the relation of subject and ruler persisted, notwithstanding a growing appreciation of industrial, as distinguished from militant, aims, and,

as Aristotle says, the state, having begun as a means of making life possible, continues as a means of making life prosperous. It followed upon every accepted theory of national success that all private right or interest must be subordinated to the welfare of the state. In no other way could the state have sure recourse to its aggregate power with swift and effective reliance for its purposes of conquest, whether in war or trade.

A natural result was the invention of every device to impress upon the people the right to reign of its ruler, king, emperor, or by whatever title designated. He was removed from the sight or touch of the great body of his subjects by the concentric walls of fortified palaces and gorgeously appareled ranks of armed guards. He was approachable only at infrequent times and through difficult channels and protected by an elaborate and impressive ceremonial. He was feigned to be of divine origin, if not himself a god, and his public appearances were attended by blare of trumpets, waving of banners and the parade of an army. He was declared to be of unerring wisdom, his thoughts and words inspired by an infallible certitude of truth. The simple people thought of him as an absolute and heaven-appointed lord, from whose bounty came all property, all hope of security or happiness; to whom was due abject submission and the tribute of every possible service, even to life itself, until it became a capital offense to criticize or question and the highest virtue to rush blindly into the very jaws of death as a simple and natural exhibition of loyalty and patriotism. *In short, the citizen existed for the state.*

A familiar, but striking, contrast between the policy of merging all interests in national success and the development of individual dignity and worth is found in the civilizations of Rome and Greece.

That a people so insignificant in numbers and the territory occupied as were the Greeks should have given to humanity such brilliant examples in history, oratory, philosophy, poetry

and art and, withal, such sweet reasonableness of domestic and public life, seems passing strange.

Here was a country not greatly differing in its size and population from the island of Cuba, having a smaller area and not half the population of Scotland, in which, during a period perhaps no greater than has elapsed since the landing of Columbus in the new world, appeared the epic poetry of Hesiod and Homer; the tragedy of Æschylus and Sophocles; the comedy of Aristophanes; the history of Thucydides and Herodotus; the philosophy of Socrates and Plato; the oratory of Demosthenes and Pericles; the science of Aristotle; the sculpture and painting of Phidias and Apelles; the architecture of the Acropolis and—perhaps most wonderful of all—direct government by the people. These but suggest the universality of Greek attainment; but the wonder is that in each department such surpassing excellence was manifested that the products of their genius have been the admiration and, in many respects, the ideals of civilized man, in every age and country, to this day.

If it be permitted to offer any theory for explanation of so wonderful a development of human powers, the suggestion would be that it is to be found in an intense and hearty conviction of the value of man as man and a genuine appreciation of the worth of living.

They occupied a land of singular natural beauty, combining infinite variety of coast scenery with numerous mountains famed for graceful and impressive outline. These mountain chains, dividing the country into distinct territories with great difficulty of intercommunication, tended to the development of individuality of character, intense local patriotism, political independence and self-reliance. The climate was varied, invigorating and delightful, causing the rich blood to course in exhilarating currents through their veins, until existence itself was felt to be a blessing.

Believing this earth to be a delightful home, provided by the divine beneficence for their use and pleasure and not

unworthy to be visited by supernal natures, no driveling pietism of a "vale of tears" entered their thoughts. Instead of "a fleeting show for man's illusion given," they recognized the perfect work of a master builder, created for their good and happiness. To them all things were worthy and dignified —the soul, guarded and guided by its attendant spirit; the body, rejoicing in its harmony and vigor as a fit home for the soul. Hence it came to pass that, by every appliance of care and exercise, the physical man was developed to the highest standard of perfection, in a serious and thorough training of its powers, attaining to a beauty and vigor which have never been excelled, while a painstaking and skillful discipline of the mind brought a no less admirable intellectual standard of excellence.

The most acute observation and the profoundest philosophy; the liveliest imagery and deepest seriousness; the most light-hearted joy in life and pleasure with the sternest sense of immutable law and unrelenting justice; the simplicity of naked truth with the utmost wealth of expression and richness of decoration in language—all are to be found in complete harmony.

Nor was there anything trifling or shallow in the natures so capable of the enjoyment of living. The most serious aspect of things was familiar to their thinking. The same hearers who laughed at the hearty ridicule and honest fun of Aristophanes, picturing Socrates or Æschylus in lights so irresistibly absurd, found anchorage for vital conceptions of eternal truth in the reasoning of that same philosopher and conviction of the inevitable nemesis which pursues sin in the sublime conceptions of that same tragedian. And the men who crowned themselves with flowers and danced to music in religious ceremonies—who esteemed the winning of a foot race as a national honor—were also they who wisely conducted affairs of state; who crushed the vast army of Darius at Marathon and swept the numberless triremes of Xerxes from the Strait of Salamis. This love of life and its pleasures did not pre-

vent their great teacher welcoming death with a smile, that he might enter into companionship of the gods and the good men who had died before him, nor did it turn back the immortal three hundred from the fatal pass which guarded the liberties of their country. The more simple, hearty and sincere is the inner nature, the clearer and stronger will be the mind and deeper, purer and sweeter will be the soul.

Such, I take it, was the Grecian spirit. Its influence has been felt through all subsequent time and lives today. By it we recognize the harmony and beauty of nature, we appreciate the gift of life as an opportunity for noble service, and, while we learn that the happiness of men cannot be displeasing to their Creator, we also learn that honor and truth are of more worth than happiness, and death itself may be the last, best gift of an infinitely wise and loving Giver.

You will anticipate the contrast afforded by the civilization of Rome; and, as it seems to me, that contrast is absolute.

The light-hearted sympathy with and joy in nature gives place to a coercion of her forces into products of use and convenience. Instead of co-operation of states and mutual assistance is found demand for unquestioning submission. For the speculative and abstract philosophy of the one is substituted the concrete and practical law of the other. The graceful and beneficial games at Olympia seemed tame, if not puerile, to those whose amusements were the bloody struggles of gladiators and the butcheries of the Coliseum. A natural and spontaneous expression of religious impulse found no place with a people who made worship political. Where passionate love of the land in which they dwelt satisfied the ardent patriotism of Greece and gave no serious bent toward conquests, pride of power filled Rome with a restless and insatiable lust of dominion over the whole earth. In short, the Grecian character was full of a sense of human brotherhood and an appreciation of real values; the Roman full of selfishness and greed of an ever-spreading sovereignty.

It is well expressed by Samuel Rogers:

Thou art in Rome, the city that so long
Reigned absolute the mistress of the world;
The mighty vision that the prophets saw
And trembled; that, from nothing, from the least,
The lowliest village (what but here and there
A reed-roofed cabin by a river side!)
Grew into everything; and year by year,
Patiently, fearlessly working her way
O'er brook and field, o'er continent and sea,
Not like the merchant with his merchandise,
Or traveler with staff and scrip exploring,
But hand to hand and foot to foot through hosts,
Through nations numberless in battle array,
Each behind each, each when the other fell
Up and in arms, at length subdued them all.

From the doubtful annals of the early kings, through the majesty of five centuries of the republic with their record of Punic wars, the overthrow of Carthage, and the conquests of Cæsar and Pompey, extending from farthest Syria to inclement Britain; its wonderful extension under the emperors, from the Dacian victories of Trajan to the Persian successes of Aurelian, until a thousand years of effort was crowned in that magnificent triumph of the Roman will, by which "from nothing"—

". . . here and there
A reed-roofed cabin by a river side—"

had grown the boundless empire of Constantine the Great, absorbing the known world—not only Europe, but Carthage, Syria, Egypt and Macedon—here is, indeed, an impressive study. But it is a study of endless war. Numberless wars of aggression waged against every existing nation until all were subjugated, and not less numerous wars of local or personal ambition. In little more than two hundred years, between Severus and Diocletian, twenty-three emperors rose to supreme power, and twenty of them died violent deaths at the hands of mutinous soldiery or successful rivals, while the struggles of Marius and Sylla, Cæsar and Pompey, Antony and Octavian are familiar to schoolboys.

All of its history but illustrates this quality of the Roman —self-confidence, pride, arrogance, oppression—contemptuous of the sacredness of human life, deaf to sentiments of humanity, its sports bloody and ruthless murder, its business conquest and plunder.

We need not question, notwithstanding all this, that the genius of Rome embraced some of the most worthy and useful qualities. No more progressive or effective spirit has been manifested in the history of our race. Inflexible will, undaunted courage, matchless perseverance, singleness of aim and directness of purpose, unfailing devotion to its ideal of honor, cheerful and absolute sacrifice to its conception of duty, calm and patient endurance—these made her the mistress of the world and furnished sublime examples of heroism. On the utilitarian side, a certain broad and liberal spirit was attested by that admirable policy expressed in Seneca, "Wheresoever the Roman conquers, he inhabits;" until the known world became, in large measure, a single state and its material welfare was secured by every form of public improvement and every guaranty of law and intelligent administration then within the power of the most highly developed system of government.

In this very imperfect sketch of the character of Greek and Roman civilization, we have endeavored to illustrate the essential spirit of each. If we have not wholly failed, there has been presented that singular contrast which is among the most striking facts of history. As a whole, we may conclude that it was the genius of the Greek to develop men in body, mind and soul; to care for the individual and secure the highest types of personal excellence. It was the genius of the Roman to develop the state in extent, resources, solidarity and power, and secure the fullest realization of national greatness.

And in nothing was the contrast more striking than in the results manifested when Christianity entered upon its mission to possess the world and the Greek and Latin theologies were developed. In the words of Professor Allen:

"The end of Christ's religion, as received by the Greeks, was the realizing of aspirations after a divine character—the free imitation of God; as viewed by the Latins, it was primarily assent to external authority. The church, in its most essential aspect, was regarded by the Greek theologians as the congregation of those who consciously acknowledged Christ as the way of righteousness and life. . . . In the Latin idea . . . the church was practically identified with the hierarchal order, and the clergy held their office and prerogatives through a sanction away and apart from the people—the delegates of a remote sovereign, commissioned to rule in His name."

I need not say that my own sympathies are with the Greek spirit. But when I consider that the noble scheme of St. Augustine, realized in a stately and magnificent religious empire, saved human civilization from chaos, preserved literature from oblivion, gave refuge and opportunity to scholarship, held up the hands of law and kept burning upon God's altars the fires of religion—in a word, was for centuries the one ark of salvation floating upon turbid and angry waves of barbarian supremacy, in which all else of the earlier civilization had been engulfed, with reverent and admiring awe I recognize the hand of God in history and give thanks for the Holy Roman Church.

May it be pardoned if another parallel is presented, from English history, to show that a like contrast may be found in the same land and that it may come from the temporary environment of the same race.

At no time in its existence, has the genius of the Anglo-Saxon people found such wealth of expression as in the age of Elizabeth; truly "an amazing phenomenon."

And why should the great learning and majestic style of Hooker, analyzing the nature of law and its ethical basis; the profound enthusiasm of Bacon, developing inductive philosophy and giving birth to modern science; the rich versatility and genuine manliness of Jonson's genius; the chivalric gentleness of Sidney; the gorgeous imagery and pure teaching of Spenser

and the infinite wit, wisdom, pathos and power of Shakespeare, not to mention a score of others, why, we ask, should all this intense fire of intellectual and moral activity kindle its beacons, to light up the world for all coming ages, within a single half century and in one of the smallest political divisions of the earth, having a population of hardly four millions? The England of Elizabeth did not greatly differ in size and population from the State of Pennsylvania of the present day; and it will, perhaps, make more real to us the marvel, if we imagine all the great names which have come down to us from that reign as living together in one of our own states. We may be reminded of what has already been said concerning Greece; but here is the product of a single generation.

We need not seek far, however, for significant facts to shed their strong light upon this wonderful exhibition. One hundred years of strife had severed continental alliances and left England concentrated within her present limits as a single, island people. The long Wars of the Roses had cemented this people into one homogeneous nation. For many generations had been silently growing the strength of the Commons, soon to be manifested in final assertion of the freedom of the people.

The work of the Reformation had given to all a sense of personal worth and dignity and release from the burden of mere authority, while exploration of a new world in America filled all minds with new images and aspirations and quickened into intense life the romantic and poetic instincts. A spirit of commercial and maritime enterprise was idealized by the daring of Drake and Frobisher and Raleigh, while national patriotism received rich coloring of chivalry in personal devotion to the "Virgin Queen," which grew into burning ardor with the triumph over Philip's "Invincible Armada." As the horizon broadened in every direction to the view of material interests, a feeling that the world had suddenly grown larger exalted the spirits of men and stimulated to noble deeds. In short, to Englishmen it was the time of times. All things

combined to bring into activity and supply with rich vehicles of expression every impulse of poetry, patriotism, wit, philosophy, romance and enterprise of a vigorous, self-respecting people. Small wonder, then, that this grand era in national life, when Englishmen felt a new birth of manhood—a joy in present greatness and a brilliance of future promise, there should spring forth such a literature, of which the philosophy of Hooker, the reasoning of Bacon and the omniscience of Shakespeare are fitting types.

There seems to be a tendency among the good people of New England ancestry to meet, occasionally, for the purpose of assuring each other how great and good their ancestors were—and they are. At one of these meetings, held some years ago by the "Congregational Club," in Boston, the polished and eloquent Dr. Storrs, of Brooklyn, than whom no man had more wonderful command of the English language, delivered an address upon "The Puritan Spirit." We have heard of this Puritan spirit. Every day and every hour are we told, with intolerable repetition, that all of virtue, morality, religion, enterprise, thrift, industry, intelligence and progress is the result of the qualities inherited from Puritan ancestry.

The address of this eminent divine was extremely interesting to me, not only as the work of an admired and honored friend and because of my own Puritan ancestors, but as the presentation of the theme by one who, of all men, could do so in its most convincing and attractive form. And what a delightful surprise it was to learn, from this address, that Moses, St. Paul, St. John, Aristides, Epictetus and Marcus Aurelius, Augustine and Hildebrand, as well as Emerson and Wendell Phillips, were Puritans. One was almost reminded of the old story of a de Levi, noted for pride in the antiquity of his family, among whose pictures was one of Noah entering the ark, bearing under his arm the archives of the de Levi's in manuscript.

There is, however, a striking resemblance, in many respects, between the Puritan and the Roman spirit. The best qualities

of the Roman are reproduced, with rare fidelity, in the Puritan. In the words of Macaulay:

"People who saw nothing of the godly but their uncouth visages, and heard nothing from them but their groans and their whining hymns, might laugh at them. But those had little reason to laugh who encountered them in the halls of debate or in the field of battle. These fanatics brought to civil and military affairs a coolness of judgment and an immutability of purpose which some writers have thought inconsistent with their religious zeal, but which were, in fact, the necessary effects of it."

All this is true and but scant tribute to their profound sincerity, their sublime ideals, their shining courage and their noble dignity and purity. The Roman ideal of an unlimited and irresistible supremacy over the kingdoms of the earth was elevated into their ideal of the universal reign of Almighty God. And in the realm of theology, their fundamental truths were closely allied to those of the Latin Church, although they denounced her as Antichrist. None the less do we find here again the self-assertion, pride, arrogance and oppression of the Roman. For the lofty arrogance of *Romanus sum*, the loftier arrogance of "The earth belongs to the saints. We are the saints." This developed later into an infinite conceit and jealous impatience of all excellence which was not of their own type. Whether we cite the bitter railing of John Adams: "Washington, Washington, the whole country rings with that one word, Washington," or the smug self-complacency and Yankee smartness, so offensive with its patronage of all mankind, or the boundless effrontery and disregard of truth and reason and decency exhibited in some newspapers — apt learners and willing practitioners in the "*School of Vituperation*," however variant may be its forms or motives—it is unmistakable in its provincial self-satisfaction or reckless bigotry.

In any system, the principal aim of which is to concentrate and direct the entire power of a nation in men and means toward national aggrandizement, what place can be found for liberty? Here and there among the people, even in the dim

past, faint glimmer of its light appeared. Gradually came recognition of some better aim than pride of conquest, lust of power or even accumulated wealth; while men grew impatient of their galling bondage to despotism, clouding all life with its ever-present terror. Now and again some desperate spirits rose up against their fate and burst their chains. Men succeeded even in asserting and exercising their reasonable right to conduct their own affairs in their own interest and secure happiness in their own way; although their success was short-lived and followed by re-establishment of the old cruel doctrine of divine right in kings and priests—the necessity to human well-being and progress of blind obedience to their authority. But, though "the mills of the gods grind slowly," century by century brought advance toward a better era. Still stronger grew and wider shone the blessed lamp of liberty, with its promise of a more perfect day. Man, as man, demanded and obtained more consideration, and one manifest right after another was conceded by or wrested from his rulers, each step in progress making the rest more easy and more certain.

When Puritan narrowness and severity were banished and the violent reaction, exhibited in shameless license and folly, after the Restoration, had spent its force, there followed internal peace, good order and decency with the "Augustan Age" of Queen Anne. Government was made more intelligent and more responsive to popular judgment by the introduction of a cabinet, while the middle class was fast becoming a powerful factor in all public affairs and a stronghold of the proprieties of private life. England, recovered from the pusillanimity of the later Stuarts, was again powerful in continental affairs and the victories of Marlborough made Englishmen once more self-respecting. With the creation of the Bank of England, discovery of the resources of national credit, the growth of a comparatively free press and the consequent spread of intelligence and knowledge of affairs, came vast improvement in the condition of the people and some general understanding among them of their rights and interests in government.

Meanwhile, colonies were forming along the Atlantic front of this our land and gradually taking form as municipal bodies under the general control of England. And here everything combined to lead men's minds to the fundamental truths of human rights and relations, while recognition of its necessity for full realization of their ideals, rather than any sense of intolerable oppression, carried the colonists forward to rebellion itself, as the only way to complete independence. The final result was absolute freedom from all external authority and an opportunity to carry their conception of what government should be among civilized men into practical form and operation.

Their opportunity was such as had never been presented to any people, and their training and experience such as to place at their service every lesson of history—all teaching of philosophy—the whole field of theory and practice in governmental science. By successful resistance to the authority of the mother country they had abolished allegiance to any earthly authority and become thirteen sovereign states, practically without the embarrassment of alliance even with any other power. They were protected from all interference and almost from all influence of foreign states by the billows of the broad Atlantic on their front and the boundless wilderness in their rear. They were freed from sectionalism or bigotry by the mutual aid and esteem which had resulted from their years of struggle in a common cause against a common enemy, and had made brothers of the Puritans of New England, Dutch of New York, Catholics of Maryland, Cavaliers of Virginia, Quakers of Pennsylvania, Huguenots of Carolina, or whatever the creed—English, Scotch, Irish, Dutch, French, Swede, or whatever the race—possessed with common hopes and ambitions. And they were the heirs of all the ages in philosophy, history and religion.

With such environment and influences the thirteen sovereign states commissioned their delegates to form a government. Of what manner of men the convention was formed it were imper-

tinent to speak, since their names are "Freedom's now and fame's." The Constitution of the United States, ratified by the requisite number of the states, was the result. I need not weary you with any attempt to exploit the excellencies or sound the praises of this charter of our national life. But permit me to speak of one, and, I think, a most significant fact, which is, that it makes no pretense of forming a government of states, or for the purpose of creating a nation. On the contrary, it boldly proclaims that *the people* of the United States *are ordaining and establishing*, and that their object is to perfect *their* union—not the union of the states.

I am a democrat of the fourth generation, and believe that recognition and protection of the reserved rights of the states is vital to the success and, indeed, perpetuation of our national life, and that those rights should be held sacred. Yet I cannot doubt that, when the sovereign states adopted this as the federal Constitution, they deliberately, within the fair scope of its provisions, and so far as it gives authority and jurisdiction to the general government, leaving inviolate the rights reserved, to be jealously guarded and preserved for all time and at all risks, relinquished and abandoned their sovereignty, and that time and words and treasure and lives have been wasted in the vain attempt to establish that it is still, in some way, a government by the states instead of a *government by the people*. And it is also very significant that the states themselves, in their several constitutions, have, in like manner, so uniformly based them upon the declared intent of the people to form a state government, of and for and by the people.

Nothing, I take it, is more distinctly characteristic of our civilization than its recognition of individual rights. With us, *the citizen does not exist for state or church, but both state and church exist for the citizen.* It is, in splendid measure, the age of applied science. Not all the power of the Tudors, nor the reckless luxury of the Stuarts; not even the wealth and caretaking of the days of "good Queen Anne," could

provide for the wealthiest noble—for the sovereign, indeed—such comfort, safety and delight—such general well-being—as is the familiar possession of the humblest laborer in our land. In its social organization, the older civilization bound men in chains which they had neither will nor power to break. Everywhere some one, recognized as a natural leader, to whom the accident of birth had given a supremacy none thought of questioning, was accepted as the guide and ruler of entire communities. If he enjoyed dignity of station or advantage of wealth, that satisfied, as by reflection, the ambition of all. If he were brilliant, polished, courtly, admired, all others basked in the sunlight of his good fortune, proud to receive some ray of his sunshine. To whom fortune permitted the pursuit of a career, in law, medicine or divinity, or even the profession of being a gentleman, education was a fitting, if not necessary, qualification; to all others, a dim and distant vision, as unreal as the stuff that dreams are made of.

How marvelous is the change that is visible to our eyes and moving rapidly on to the working of miracles beyond our wildest imagination! Railways and steamships, telegraphs and telephones have brought into close relations people from the remote quarters of all lands. Provincialism is almost swept away already by the simple interchange of experiences and ideas, made possible by improved methods of travel and facilities for intercommunication of knowledge. A thousand new ideas and aspirations occupy the thoughts, while a thousand opportunities stimulate to action.

But this has its most valued results in other than commercial success. The average human intelligence is coming to control human affairs and no longer waits upon the power of some superior for support, under the influence of an outworn "parental" theory, but feels and proudly rejoices to feel that each man must coerce fortune by his own wisdom, skill and energy.

Far removed is this from the spirit of feudalism, when, even by the people themselves, their comfort, health, happiness—

their very lives—were regarded as the concern less their own than of their masters. But, with the new era, all things are seen in truer proportion, and a recognition of their own personal worth, of their right to a voice in matters which affect themselves, is developed in them. It became manifest in the triumph of the Commons in England; by American independence it gave practical form to human liberties and showed that men had not only the right, but the power, to fashion their own destiny; and when the lurid skies of the French Revolution had emptied themselves of that frightful tempest of rage and hate, the whole world recognized—not without awe and trembling—that every chain of despotism, every fetter of convention and baseless tyranny of custom, might be burst and flung to the winds like cobwebs—that the sole, rightful ruler of men upon this earth, resistless in might, because founded in right, *is the sovereign common people.*

This is the true reading of our Declaration of Independence. This is the meaning of our fathers in the federal Constitution. *Democracy. Let the people reign.*

Where can you find in this great charter of our nation any hint of paternalism or assent to militancy; any machinery or warrant for conquest or suggestion of national aggrandizement at the expense of any other people? All is sane and just, having as its very atmosphere, the sweet reasonableness of these pure and noble aims, which it is good to repeat: "To form a more perfect union; to establish justice; to insure domestic tranquillity, provide for the common defense, promote the general welfare and secure the blessings of liberty to ourselves and our posterity"—truly "peace on earth and good will to men."

To a nation such as we have grown to be, with the stupendous development of our numbers, wealth and power, it is evident that our most insidious and dangerous temptation is national pride. To a people like ours, with unlimited opportunity and universal education, it is natural that our besetting sin should be intellectual pride, with all of its inherent selfish-

ness and self-sufficiency, so shamelessly manifest in the present reign of "graft" and "trusts" and political corruption. And it is evident, to my thinking, that the only basis for hope in our future, as a nation or as a people, must be found in cultivation of the spiritual, development of moral quality, in its broadest sense, in public and private life.

Brothers of the Bar: Our influence has been and may yet be all-powerful. On another occasion I have said—I think correctly—that of the men who signed the Declaration of Independence, fully one-half had been bred to the Bar, and twenty of the twenty-five men who have occupied the Presidential chair had been taught in our learned profession, while twenty two of the thirty-two governors of the empire state were taken from among its members; that lawyers shape legislation everywhere among us, or when they do not, it is only because they do not care to do so, for it is certainly, under all ordinary circumstances, within their control.

Let us, then, recognize our responsibility and, as the great aim of our profession and sole object of the science of the law, in which we have been trained, is the practical application to human affairs of the standards of righteousness, let us exert all our influence to preserve our civilization from the poison of militancy—the burden and the curse of other lands; let us not forget the purpose of our fathers in framing and adopting the Constitution, but consecrate ourselves to that noblest of objects: "To secure the blessings of liberty to ourselves and our posterity," and that, in those immortal words of Lincoln, too wise and too profound to ever become hackneyed, "*government of the people, by the people and*" above all "*for the people, shall not perish from the earth.*"

REPORT

OF THE

COMMITTEE ON COMMERCIAL LAW.

BANKRUPT LAW.

To the American Bar Association:

Your Committee on Commercial Law respectfully report:

At the meeting of the Association in 1897, a paper by Mr. Walter S. Logan, a member of the committee, entitled "A Broader Basis of Credit," was referred to this committee with instructions to report what, if, in their opinion, any, legislation was necessary to carry out the suggestions contained in the paper, and to report such bill or bills as in the judgment of the committee should be deemed advisable to carry out such suggestions.

Before the meeting at which the committee was to report on this subject, the Bankrupt Law, approved July 1, 1898, was passed and went into effect. This law provided to a considerable extent a remedy for many of the evils pointed out in the paper referred to, but in the judgment of the committee and of this Association was far from being perfect as a piece of legislation.

In the years 1898, 1899, 1900, 1901, 1902, 1903, the committee made reports upon the Bankrupt Law and upon proposed amendments to it. All of these reports were approved—generally unanimously—by the Association.

In the year 1899 the committee, after discussing the subject, summed up its conclusions as follows:

"Your Committee on Commercial Law are of the opinion:

"1. That a bankrupt law is wise and beneficent legislation.

"2. That the general features of the present Bankrupt Law should have the approval and support of the Bar and the commercial community.

"3. That whatever amendments are made to the provisions of the law relating to voluntary bankruptcy should be in the line of a better protection to the creditor against fraud in the bankruptcy proceedings.

"4. That the amendments to the provisions of the law relating to involuntary bankruptcy should be along the lines of a better remedy for the creditor for fraud, actual or contemplated, on the part of the debtor previous to the institution of bankruptcy proceedings.

"5. That the ideal Bankrupt Law is one that

"(*a*) Allows every honest debtor to procure a speedy discharge from his obligations upon the surrender of all his property;

"(*b*) Gives every creditor a complete remedy against actual or contemplated fraud on the part of the debtor;

"(*c*) Punishes all fraud on the part of debtor or creditor with relentless severity."

At the conclusion of the reading of this report it was moved by Mr. Robert D. Benedict, of New York, and seconded by Mr. Everett P. Wheeler, of New York, that the report be approved and adopted, and further, that the committee be instructed to continue its study and investigation of the practical working of the Bankrupt Law, and to report further thereon at the next meeting of the Association, with any amendments they may deem necessary for the perfection of the statute. This motion, after considerable discussion, was unanimously adopted.

At the meeting of the Association in 1900 a report was made by the committee covering fourteen full pages in the Association's report, in which the amendments then pending before Congress, in what is known as the Ray Bill, were discussed at length and approved and other recommendations made in relation to the amendment of the law. The report was fully discussed at the meeting of the Association, the discussion occupying the greater part of one entire session. Hon. E. C. Brandenburg, Assistant United States Attorney

General having charge of bankruptcy proceedings, was present, and was invited to participate in the discussion, and did so. After a comparatively unimportant amendment, the report was unanimously adopted.

In the report of the committee for the year 1901 the Ray Bill was further discussed and its passage advocated, and at the conclusion of its reading the following resolutions were unanimously adopted:

"*Resolved*, That the report of the committee be accepted and approved, and

"*Further resolved*, That the Committee on Commercial Law for the ensuing year be authorized and instructed to continue the line of work of its predecessors looking to the perfecting of the Bankrupt Law."

In the winter of 1901 and 1902 the Ray Bill passed the House of Representatives by an overwhelming majority, but was not acted upon by the Senate. In the report of your committee for 1902 the proposed amendments were still further discussed at considerable length and its conclusions unanimously approved and adopted, and the committee was again authorized and directed to advocate and urge proper legislation by Congress on the lines recommended by the report.

On February 5, 1903, the bill which had been so long and so earnestly advocated by the committee and supported by the Association, after having been passed by both houses of Congress, received the signature of the President and became a law. In the discussion of the subject before the committees of Congress your Commercial Law Committee took a leading part, and its chairman was present in the rooms of the Senate Judiciary Committee at the request of the chairman of that committee when the bill was finally reported and put upon its passage in the Senate. The bill as amended was not by any means all that your Committee on Commercial Law desired, but it was so great an improvement on any previous bankruptcy legislation, and embodied so much that your committee had long recommended, that your committee considered its

passage a great triumph for the Association. In the work of securing the passage of these amendments your committee co-operated with commercial bodies throughout the nation, and the adoption of the Ray Bill seemed to give general satisfaction to the legal and to the commercial community.

In the report of the committee for 1903 your committee again took strong ground in support of the Bankrupt Law, and, although their conclusions upon subjects other than the Bankrupt Law met with somewhat determined opposition in the Association, their conclusions upon the bankruptcy question were accepted without question.

It thus appears that for seven consecutive years the Committee on Commercial Law have reported in favor of substantially the bankruptcy legislation which now appears upon the statute books of the United States, and that the Association has at all times, with practical unanimity, sustained the committee in their work and adopted their conclusions.

If there is anything that the American Bar Association would seem committed to as a part of the permanent jurisprudence of the United States, it is a bankrupt law embodying the essential features of the present law. The lines upon which the battle for the Bankrupt Law has been fought are those laid down by the American Bar Association, and the existence of the present law is due in very large measure to its continued approval by this Association and the constant contest which it has made in behalf thereof.

A bill is now pending before Congress which proposes to repeal this very Bankrupt Law. Your committee look upon this policy with the utmost disfavor. They believe that the Bankrupt Law, brought to its present improved state largely through the influence of this Association, should be and remain a part of the legal polity of the nation. It should be perfected in all respects in which further improvement is possible. It should be made as far as possible a relief for the honest debtor, a protection for the honest creditor, and a means of punishment of all fraud in connection with bankruptcy. If

there are faults in the legislation, they should be remedied by amendment. They should be eliminated by perfecting the existing law. If at any place or at any time this law is found to work injustice, its administration should be improved; but the body of the law should remain. To repeal the present law, only to re-enact another at some future time full of the crudities of new legislation, seems the height of legislative folly. If the law remains, modified only when necessary to make its provisions more logical and its administration more accurate, the business community and the legal profession will readily accommodate themselves to the changes as they have already accommodated themselves to the body of the enactment. If, on the other hand, a bankrupt law is to survive its enactment for a few brief years only and no natural system is to exist for an ensuing period until a new scheme of federal policy is adopted, as has been the past history of bankruptcy legislation in this country, the path of the business man is made harder both by the enactment of the law and by its repeal, and the course of justice runs not on an even keel, but interruptedly, intermittently and unsatisfactorily.

The present law has its enemies. One of its unpopular features in certain quarters is that which prevents preferences and compels all creditors of a bankrupt to share ratably in the division of his estate—a feature which your committee highly commend. Many creditors think that in the race and scramble for a preference they are in a position to fare better than their less fortunate or less favorably situated neighbors. But, however much they might profit by possible preferences, the business community and the general public suffer, and the policy is mischievous.

Your committee cannot conceive that the people of the United States would ever be willing to go back permanently to the methods prevailing at times when there was no national bankrupt law. The only fair and equitable method for the division of an insolvent's estate is the method prescribed by the law. No state statute could take its place, for in these

days of world-wide commercial relations no one state can have the requisite jurisdiction. It would, in the judgment of your committee, be a reactionary and retrogressive movement to deprive the community of this enactment, which allows an honest but unfortunate debtor to start life anew on the condition of surrendering his whole property to his creditors, and which permits creditors, by taking the initiative, to rescue the salvage of an otherwise hopeless wreck, and to pursue this course without engaging in an unseemly scramble for preferences as among themselves.

Your committee therefore recommend that the American Bar Association adhere to the strong stand taken in years past in support of a bankrupt law as a part of the permanent jurisprudence of the United States, and in support of the present law as being on the whole the best law heretofore enacted.

Your committee specifically recommend the adoption of the following resolutions:

"*Resolved*, 1. That the American Bar Association approves now, as it has heretofore frequently approved, a bankrupt law as a permanent part of the jurisprudence of the United States.

"2. That the Association regards the present law as by no means perfect or incapable of improvement by amendment, but as drawn upon correct lines and capable of perfection without drastic amendment.

"3. That the Association disapproves of the bill now pending for the repeal of this law, and earnestly asks Congress not to pass it.

"4. That the Committee on Commercial Law be and they are authorized and requested to oppose the passage of the act before the proper congressional committees and its signature by the President if passed.

"5. That the members of the Association, in sympathy with the conclusions expressed by the committee, be and they are requested to communicate with their senators and representatives in Congress to that effect.

"6. That the Secretary of the Association be, and he is hereby directed, to send a copy of these resolutions to each

member of the Association as soon after this meeting as practicable without waiting for the publication of the annual report."

Dated July 17, 1905.

Respectfully submitted,

WALTER S. LOGAN,
GEORGE WHITELOCK,
F. N. JUDSON,
Majority of Committee.

NOTE.—By reason of absence from the United States of Charles F. Manderson and W. U. Hensel, the other two members of the committee, the subject matter of the foregoing report has not received their consideration.

COMMITTEE ON COMMERCIAL LAW.

SUPPLEMENT TO THE MINORITY REPORT OF 1904.

To the American Bar Association:

At the meeting of the Association, at St. Louis, in 1904, the following resolution was adopted:

"*Resolved*, That the majority and minority reports of the Committee on Commercial Law be received and filed. And that inasmuch as the reports were not printed and distributed fifteen days before the meeting, consideration of the reports be postponed until the next annual meeting of the Association, with leave to the committee to amend or supplement the report, provided any such amended or supplemental report be printed and distributed to members as required by the by-laws."

I wish to take advantage of the leave granted in this resolution to supplement my minority report of last year, which is printed in full in the report which has just been published.

At the meeting of the Association at Hot Springs in 1903, a unanimous report was presented from the Committee on Commercial Law upon the subject of "Commercial Law and Modern Commercial Combinations." After considerable discussion the following resolution was passed:

"*Resolved*, That the report of the Committee on Commercial Law relating to modern commercial combinations be recommitted to the committee for the ensuing year, and that said committee be instructed to report specific remedies in legislative form for any unlawful combinations which may threaten commercial intercourse."

The personnel of the committee for 1904 differed from that of the committee for 1903 to such an extent that, while the

action of the committee for 1903 was unanimous, I found myself a minority in the committee for 1904.

The personnel of the committee for this year is the same as that of last year, so that I am still a minority upon this question.

I wish to congratulate the other members of the committee for 1903 upon the consideration that has been shown and the importance attached by the Association to their report of that year. It was deemed of such importance that the Association at that meeting recommitted the subject to the committee with instructions "to report specific remedies in legislative form for any unlawful combinations which may threaten commercial intercourse." When it came to act upon these instructions, the committee of last year were unable to agree upon the "specific remedies in legislative form" to be recommended, and so a majority and a minority report was made, but owing to the absence of some of the members of the committee the report could not be put in the hands of the secretary soon enough to be printed and sent out to the members before the meeting.

The Association, at the meeting in 1904, having the majority and the minority reports of the committee before them at the time of the meeting, but not having had them distributed before the meeting, deemed the subject of sufficient importance to direct that both the majority and the minority reports be received and filed, and that "the consideration of the reports be postponed until the next annual meeting of the Association." It thus appears that the Association by its affirmative action has deemed the subject reported on by the committee of 1903 worthy of attentive consideration at three of its annual meetings.

If the committee for 1903 needed any vindication or indorsement for having reported upon this subject, they have certainly received such vindication and indorsement in the action of the Association at the two meetings in 1903 and 1904. It seems to be generally conceded to be a very important and timely subject for discussion and consideration by the American Bar Association.

The majority of the committee for 1904 reported that

"The committee are not satisfied that there is any present necessity for such legislation."

From that report of the majority I, as a minority of the committee, dissented. I proposed two legislative remedies for the evils pointed out in the unanimous report of the committee of the year before. One remedy provided for the extension of the equity jurisdiction of the courts under the Sherman Anti-Trust Law to individual plaintiffs affected where now such remedy is limited to an action brought by the Attorney General in behalf of the United States, and the other remedy provided for a license tax upon corporations doing an interstate commerce business which should be graded up instead of graded down—that is, a tax which will compel a corporation to pay a tax at a larger rate for the last millions of dollars of its capitalization than for the first millions, instead of, as is generally the case now, paying at a higher rate for the first millions than for the last millions.

I am still firmly of the opinion that these two remedies would be beneficent legislation, and should be recommended to Congress by the American Bar Association.

In the discussion last year some criticism was made upon the language of the statute proposed as the first of these remedies. I should be sorry to have the merits of the question obscured by any supposed verbal inaccuracies or insufficiencies; and on further reflection I am of the opinion that the object sought by the first of the proposed legislative remedies can be better attained by the amendment of the "Act to Protect Trade and Commerce against Unlawful Restraints and Monopolies, passed July 2, 1890." I propose that Section 7 of said act be amended by adding thereto the following:

"or such person may bring suit in equity for an injunction to restrain such other person or corporation from doing anything forbidden or declared to be unlawful by this act, if the injury with which he is threatened be irreparable or other conditions specially justifying the exercise of the powers of a court of equity exist."

The whole section would then read as follows:

"SEC. 7. Any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act may sue therefor in any Circuit Court of the United States, in the district in which the defendant resides or is found, without respect to the amount in controversy, and shall recover threefold the damages by him sustained and the costs of suit, including a reasonable attorney's fee, or such person may bring suit in equity for an injunction to restrain such other person or corporation from doing anything forbidden or declared to be unlawful by this act, if the injury with which he is threatened be irreparable or other conditions specially justifying the exercise of the powers of a court of equity exist."

I am not at all particular about the language of the statute or the amendment, provided it accomplishes the purpose intended, which is to give the individual suitor, who is specially injured in his person or his property by violations of the act, the ordinary remedy in a court of equity as well as in a court of law. I have reduced the proposition to specific form as a proposed statute or amendment to the existing statute, only because the language of the resolution of this Association at its meeting in 1903 seemed to require it. The approval by the Association of my report—if it should see fit to approve it—need not necessarily carry with it an approval of the exact language which I have used. Any language apt to accomplish the purpose intended will do as well.

The majority of the committee last year seemed to base their report that this legislation was not necessary, upon their interpretation of the existing statute, to wit: that it already gave the private litigant the remedy proposed. They say:

"It is now provided by the Anti-Trust Act of Congress (section 7) that a party specially injured in his property or business by unlawful combinations may recover treble damages as well as reasonable attorney's fees. *The committee do not understand that a person so specially injured by unlawful combinations may not be protected by a court of equity if irrep-*

arable injury or other conditions to the exercise of equity jurisprudence exist. If it should be decided that the general jurisdiction of a court of equity as distinguished from the summary jurisdiction under this act does not extend to such cases of private litigants suffering special injury from unlawful combinations, *the committee would recommend legislation conferring the requisite jurisdiction.*"

The majority of the committee also say:

"The committee realize the importance of securing to every suitor speedy and certain remedies for every wrong and of providing in every practicable way for the simplification of our remedial procedure."

As I understood, therefore, the report of the majority of the committee, they approved of the principle embodied in my proposed legislation, but thought it unnecessary for the reason that they thought the remedy already existed. I quoted authorities in my report of last year at considerable length to show that they were mistaken in this supposition, and that as the law stands now a court of equity does not have jurisdiction under the Anti-Trust Act of any suit brought by a private suitor, no matter how much the exercise of its jurisdiction may be necessary for the protection of the suitor's rights. He must get what remedy he can in a court of law, no matter how insufficient that may be, and be content with that. He may try to get what damages he can from the thief who has stolen his horse, but he may not lock his stable door.

The authorities which I cited at such length in my report of last year still remain unchallenged, and the decisions that have been made during the past year have only served to confirm and re-enforce the current of authorities existing a year ago. If any further authority was needed to establish it, it is now established as completely and absolutely as possible that the private suitor has no standing whatever in a court of equity under the Sherman Anti-Trust Law.

In the discussion upon the reports last year my learned associate on the committee, Mr. Frederick N. Judson, who signed the report of the majority and was selected as their

spokesman (page 33, Report of 1904), seemed to complain that I did not submit my authorities which I cited in my report to the majority of the committee.

The reason was that they did not ask for them. To such learned and distinguished lawyers reporting on so important a question it seemed to me superfluous to present unasked the result of my own study, and out of place to assume that they had not made a similar study for themselves before assuming to report upon such a subject.

Mr. Judson also seems to think that what I propose is an unjustifiable extension of the power to issue injunctions in the federal courts. I pass over the argument *ad hominem*, in which he suggests that my report is inconsistent with my politics. I would much rather be inconsistent than wrong.

I do not think that his argument is well founded. The Sherman Anti-Trust Law is itself an extension of the law against monopolies. It was so intended. It was not passed as a reaffirmance of the common law. It was an act designed to carry the law against monopolies into a field which the common law had never invaded. We are not concerned now with the question of the beneficence of the Sherman Anti-Trust Law. It is on the statute books and seems to be there to stay. I have heard no demand anywhere for its repeal. The only demand seems to be for its extension. But if the law is to be upon the statute books as a part of the jurisprudence of the United States, if the rights which it creates are to remain a part of the heritage of American citizens, and the evils which it enacts shall be thereafter legal wrongs are to continue to be wrongs for which the injured citizen may obtain redress, then the citizen whose new rights are invaded, and who seeks redress for the new wrongs that he has suffered, ought to have the benefit of all the old remedies designed to protect rights and redress wrongs. One of the remedies, as old as our jurisprudence, of which every citizen may avail himself in all cases where his rights are invaded, is the right to bring suit in a court of equity wherever the

injury which he suffers or with which he is threatened is irremediable and the other conditions incident to equity jurisdiction exist. When the Patent Law was added to our system of jurisprudence the right to an injunction in a proper case went with it. The same is true of the Copyright Laws, and of all other extensions to our national jurisprudence. A suit in equity and an injunction in a proper case has never before been denied to an American citizen wherever his rights were acknowledged. Why should that right and the remedy necessary for his protection be denied in this case? If the combinations referred to in the statute are unlawful, why should not the citizen have the right in a proper case to seek his remedy against the wrong he suffers by a suit in equity and an injunction? Why should he have a remedy by suit in equity and an injunction against a common law monopoly and be denied such remedy against the monopoly made unlawful by this statute?

What I am asking for is that he shall have the same protection for his rights and the same remedy to redress his wrongs in one case as in another. I understood the majority of the committee last year to agree with me that this was what the citizen was entitled to, if he did not have it already, and I have shown, I think pretty clearly now, that he does not already have it. But whether the majority of the committee would give it to him or not, I hope the American Bar Association, so far as their recommendation and indorsement goes, will.

As to the second of my proposed legislative remedies, I have little to add to what I said in my report of last year. The worst objection to the proposed legislation seems to be that it would be effectual. It would do two things: it would put the burden of taxation to some extent upon shoulders more able to bear it than some of the shoulders that bear it now, and it would furnish an automatic means by which corporate growth may be restrained within the danger limit. It has the approval of many distinguished jurists, publicists and statesmen and I hope it will have the approval of the American Bar Association.

I ask of my fellow members of the Association that they carefully and deliberately consider the majority and minority reports of the Commercial Law Committee of last year and that they do righteousness between us.

New York, July 31, 1905.

WALTER S. LOGAN.

REPORT

OF THE

COMMITTEE ON INTERNATIONAL LAW.

To the American Bar Association:

The Committee on International Law presents its annual report, in which we call attention to what appear to us to be the most noteworthy events in that field since the last meeting of the Association.

I. General Arbitration Treaties.

The general arbitration treaties with Great Britain, France and other countries, which at the last meeting of the Association we recommended for ratification, were rejected by the Senate in the form in which they were submitted. The change proposed by the Senate was in one word only. As negotiated by the President, these treaties provided that the President could and would make an agreement with the other signatory power to submit to arbitration any matters within the scope of the treaty, according to the provisions of the Hague Convention. This word "agreement" undoubtedly referred to "the special submission" provided for in article xxxi of the Hague Convention. For this word the Senate substituted "treaty." The effect of this change, if approved by the President, would have been to require the ratification by the Senate of every subsequent arbitration. Inasmuch as the power to make a special treaty of arbitration is conferred by the Constitution of the United States, and has always existed since the foundation of the government, the advantage is not perceived of declaring by a treaty that this power exists. Its effect, if adopted as amended, would be to restrict the power conferred by the Hague Convention upon the President, and exercised by him in the matter of the Pious Fund Arbitration. The exercise of that power does not require the consent of the

Senate. The President naturally objected to limit his future action by any such restriction.

The argument that the President and Senate cannot constitutionally make a general treaty of arbitration seems to your committee untenable for the following reasons:

1. It ignores the difference between a treaty and an agreement. Every treaty is an agreement, but every agreement is not a treaty. Every deed is a contract, but every contract is not a deed. A contract to be a deed, must be under seal. An agreement to be a treaty, must be made "by and with the advice and consent of the Senate." Just as a deed may authorize the person named in it to make a contract not under seal, so may a treaty authorize the President to make an agreement to submit to arbitration a matter in difference between the United States and a foreign power, without requiring any further advice and consent of the Senate than that involved in the original ratification.

2. It ignores the well-settled rule of construction that when the Constitution itself makes no exception, the court should not make one by construction. To use the language of Chief Justice Marshall in Gibbons *vs.* Ogden:[1]

"The subject is transferred to Congress, and no exception to the grant can be admitted, which is not proved by words, or the nature of the thing."

The Constitution of the United States, article ii, section 2, contains the following grant of power to the President:

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur."

This is a general grant of power. It has no limitation expressed. And how can it be said that any limitation is necessarily to be implied? It follows that the President, by and with the advice and consent of the Senate, can make a general treaty. In fact he has been doing this ever since the foundation of the government.

[1] 9 Wheaton 1, 215.

Not only have general treaties been made, dealing with a variety of subjects, but general arbitration treaties have been made and ratified by the Senate. The most notable of these was the Hague Convention.[1] But the very first treaty of them all, the famous Jay Treaty of 1794, made by Washington himself, and ratified by the Senate, was in effect a general arbitration treaty. It provided for three arbitrations before three separate commissions. The first of these was to adjust the boundary between Maine and Nova Scotia. The second was to decide a multitude of claims pressed by British citizens against the United States. The third was to decide a multitude of claims pressed by citizens of the United States against Great Britain. The language of the treaty describing these claims is general in its character. It can hardly be maintained that the President cannot make a very general treaty, but can make a pretty general one. Epithets have no place in constitutional construction.[2]

3. The effect of a treaty, when once made, is declared by article vi of the Constitution:

"All treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land."

It follows, therefore, that the Hague Convention, when ratified by the Senate, became a part of the supreme law of the land. It did not any the less become the supreme law of the United States, because it is also the supreme law of all the signatory powers — that is to say, of almost all the civilized world.

4. The question has been asked: Where did the President get his power to submit to arbitration the Pious Fund controversy with Mexico? The answer is obvious:

Article ii, section 3, of the Constitution provides:

[1] A copy of this is appended to the report of this committee, 1899.

[2] An analogous case is that of extradition treaties. These enumerate a list of offenses for which a surrender will be granted. Each act of surrender involves a separate agreement. Holmes *vs.* Jennison, 14 Peters 150.

"He (the President) shall take care that the laws be faithfully executed."

The Hague Convention is one of these laws. And the Pious Fund arbitration was in execution of the Hague Convention. That great treaty, as this committee has pointed out in previous reports, especially that for 1899, contains full provisions for the submission to a competent tribunal of all matters in difference between the signatory powers. The tribunal has been organized. It has judicial officers, and a permanent administrative council at The Hague. It is, to quote from article xx of the convention, "A permanent court of arbitration, always open, and exercising its powers, in the absence of an agreement to the contrary, conformably to the rules of procedure included in the present convention."

The President's power to submit to the decision of this "permanent court" any matter in difference between the United States and any other of the signatory powers, rests on the same basis as his power to direct the attorney general to bring a suit in the Circuit Court of the United States to recover a debt due to the United States. The "permanent court of arbitration" at The Hague is the Supreme Court of the nations. The sooner that great fact is realized the better it will be for the cause of peace and for the development of the science of international law.

5. The object of making additional arbitration treaties, as we pointed out in our report for 1904, was to bind the nations by express promise, to submit to the decision of The Hague tribunal matters in difference between them. Those that the Senate rejected were perhaps inaptly phrased. It might have been argued that they limited the scope of the Hague Convention. It may be that their rejection will turn out to be a blessing in disguise. All that is needed, in our judgment, is a treaty with the various nations which joined with the United States in making the rejected treaties, expressed substantially in the following terms:

All matters in difference between the high contracting parties that are within the scope of the Hague Convention, shall be submitted to arbitration in accordance with the terms of that convention.

6. The argument thus far has been confined to the question of power. A few words on the subject of the advisability of general treaties will close this part of the report.

In general it may be said that jurists are agreed that general legislation is likely to be wiser than special legislation. The abuses to which the latter is subject have led many of the states to adopt constitutions prohibiting many classes of special legislation. Formerly, for example, all corporate charters were special. These are now prohibited in many of the states. Even before constitutional amendments to that effect were adopted, general laws under which individuals could incorporate were passed. Certainly the grant of a corporate franchise is a legislative power. But it was never doubted that a legislature could exercise this by general law, as well as by special charter. And the general laws are certainly far wiser in their provisions, and more considerate of the public interests, than special charters. It is always better to arrange matters beforehand, on general principles, than to decide on the spur of the moment.

In the case of the civil service of the country, it has been found advisable to provide in general terms for its administration, and to confer upon the President the power to make from time to time regulations for its further government. By these regulations he has greatly extended the scope of the classified service. His power to do this has been questioned. The validity of the civil service legislation has been assailed. But it has been sustained by the courts.

[1] People *vs.* Civil Service Boards, 103 N. Y. 657; aff'g s. c. 41 Hun. 287.

People *vs.* Common Council, 16 Abb. N. C. 96.

Foreman *vs.* Union etc. Co., 83 Hun. (N. Y.) 385.

Opinion Justices Supreme Court, 138 Mass. 601.

So it has been found expedient to confer upon the Secretary of the Treasury power to make regulations respecting the importation of foreign goods. The supervising inspectors have been authorized to prescribe rules for inland navigation. The pilot commissioners of a state have been authorized to make rules for the pilotage of vessels entering and leaving its ports. In all these cases it has been found that the exigencies of the situation could best be served by the action of public officials which could be modified from time to time without the necessity of a resort to Congress. In all these cases, the rules promulgated under the statute are held to have the force of law.[1]

The reasoning in these cases is especially applicable to treaties of arbitration. When a matter in difference arises between two nations, the passions of each are apt to become excited. It is claimed on each side that the national honor is at stake. And then the platitude is brought forward that a nation must never arbitrate a question involving its honor.

As Hamilton said when this objection was made to the Jay Treaty:

"It would be a horrid and destructive principle that nations could not terminate a dispute about the title to a particular parcel of territory by amicable agreement or by submission to arbitration as its substitute, but would be under an indisputable obligation to prosecute the dispute by arms till real danger to the existence of one of the parties would justify, by the plea of extreme necessity, a surrender of its pretensions."

There can be little doubt that the Dogger Bank incident would have involved Great Britain and Russia in war had it not been for the Hague Convention. The English were nat-

[1] "This court has too repeatedly said that they have the force of law to make it proper to discuss that point anew." Gratiot *vs.* United States, 4 How. 80.

Ex parte Reed, 100 U. S. 13.

United States *vs.* Barrows, 1 Abb. (U. S.) 351.

Matter of Moore, 108 N. Y. 280.

Sturges *vs.* Spofford, 45 N. Y. 446.

Cisco *vs.* Roberts, 36 N. Y. 292.

United States *vs.* Williams, 6 Mont. 379.

United States *vs.* Fuellhart, 106 Fed. Rep. 911.

urally indignant at the unprovoked attack upon their fishing fleet. There was no time to negotiate a new treaty, and public sentiment would not have supported the ministry in making one. But they took advantage of the terms of the existing general treaty, and the controversy was amicably settled, with justice to both parties.

In concluding this part of the report we call attention to an admirable summary, by Sir John Macdonnell,[1] of the development during the nineteenth century of this branch of international law.

"Looking back on the arbitrations of last century, they are seen not to be detached incidents in its history. We witness the formation of a new institution, a new organ for harmonious relations between states, with functions of its own; an evolution not unlike that which created ages ago in most countries tribunals for the settlement of domestic disputes. The sixteenth and seventeenth centuries gave the world permanent embassies, permanent means of conducting intercourse between nations. The eighteenth century, at its close, gave the rudiments of a rational law of neutrality. The nineteenth gave international arbitrations, which, in the words of William Penn, tend not a little 'to the rooting up of wars and planting peace in a deep and fruitful soil.'"

II. Rights of Neutrals.

The final act of the Hague Conference of 1899 contained the following clause:

"The conference desires that the question of the rights and the duties of neutrals may be entered on the program of a conference to be called at an early day."

Our great Secretary of State, Mr. Hay, who did so much to enhance the dignity and influence of the United States, and to promote peace and good will among the nations of the earth, and whose untimely death we all regret, in a circular letter to the nations asked that a conference of representatives

[1] Nineteenth Century and After. The Living Age, May 13, 1905, p. 392.

from each might assemble to consider among other things this very subject. The war between Japan and Russia has naturally given rise to many questions which are still unsettled and which would naturally come before such a conference.

We now call the attention of the Association to some of these questions.

1. The use of the territorial waters of neutral states by the Russian fleet during its voyage to the far East has given rise to an interesting question of the law of neutrality. It is to be regretted that the lack of official documents prevents anything more than a tentative examination of the case at this time. Certain facts seem, however, to be sufficiently well established to enable us to make some comment on this question.

The Russian fleet left the Baltic in October, 1904, and did not reach the China Sea until six months later. Without the use of neutral ports and waters in which to repair, coal and take on provisions the voyage could probably never have been accomplished. Passing over the briefer stops made in European and Mediterranean ports, it will be remembered that the fleet proceeded in two divisions, one via the Cape of Good Hope and the other through the Suez Canal. A junction of the two divisions was effected in the waters near Madagascar in January, 1905. Nossi Be, a French island, lying only ten miles off the northwest coast of Madagascar, was selected as a point for a long stay. Here the fleet anchored outside the three mile limit, but was in easy communication with the shore by several boats, and from thence obtained abundant food supplies. The vessels were also coaled from colliers which accompanied them, or which met them by prearrangement in Madagascar waters. A month or more was spent at Nossi Be in drilling the crews in target practice, and in generally putting the ships in a more efficient condition for a naval engagement. On February 16th, seventy Russian ships were reported to be at Nossi Be and frequent arrivals of colliers and provision ships were reported.

In March the fleet started for the Pacific and was reported off Singapore on April 8th. A week later it put in at Kamrahn Bay in French Indo-China and remained for ten days. During this time it was freely supplied with coal and provisions from transports. It is also said that the Russian government had purchased a site near Saigon at the outbreak of the war, and established there a coal depot, and that it was from this source that the Russian ships at Kamrahn Bay were to a large extent supplied. These proceedings called forth a strong protest from the Japanese government and under pressure from the local French naval authorities, acting under instructions from Paris, the fleet sailed away on April 25th. Coaling operations appear to have been resumed in other French harbors farther north, and at the Chinese island of Hainan. If the reports in the press are to be believed, the action of the local French officials was very complacent, while the presence of only a small French naval force restricted the fulfillment of neutral duty to mere protests.

The history of the Russian fleet's progress to the Far East illustrates strongly the existing defects in the present law of neutrality. It is commonly said that, by the rules of international law, a belligerent vessel may not remain in a neutral port more than twenty-four hours, nor receive a greater amount of coal than is necessary to take the ship to the nearest port of its own country. It is true that the neutral regulations of certain states contain such provisions, but they cannot yet be said to be incorporated in the law of nations. The twenty-four hour rule is moreover subject to an important relaxation. In the case of vessels putting into port or detained on account of bad weather, lack of supplies or in order to make repairs, they are to depart (as variously expressed) "as soon as possible after the expiration of twenty-four hours" or "as soon as possible after the cessation of the cause of delay." The question of coaling aside, war ships are not likely to visit neutral ports except under these very circumstances. It is evident therefore that, at the best, the

rule can be but a partial protection to the other belligerent. The twenty-four hour rule and the limitation as to coal have appeared in all the neutrality proclamations of the United States and Great Britain beginning with the Franco-Prussian War. Russia adopted the twenty-four hour rule during the Spanish-American War, and Japan adopted both rules. On the continent of Europe, Italy is the only great power which holds to the rule of twenty-four hours. The Scandinavian countries, for whom neutrality is a vital matter, follow the two rules, at the same time excluding belligerent vessels altogether from certain named ports. The French regulations of February, 1904, bearing on this point are as follows:

"The period of time, during which belligerent vessels may remain in our ports, if not accompanied by a prize, is not limited by any special regulation. A belligerent vessel may be supplied with the following articles only: Food, supplies, provisions (*vivres*, *denrees*, *approvisionnements*) and things for making repairs, which are necessary to the sustenance of the crew and to the safety of navigation"

As coal may be necessary to the safety of navigation, and may be comprehended under the word "*denree*" (according to Hautefeuille), it follows that no limit is placed on the supply of it.

The question of the supply of coal to belligerents in neutral ports and waters came before the Geneva Tribunal of Arbitration, and counsel for the United States argued at great length that the supply of coal to Confederate cruisers in British ports did, in the case of certain vessels, make these ports "bases of naval operations" within the meaning of the second rule of neutral conduct, formulated in the treaty of Washington. In no case, however, is it apparent that the British government was held to be chargeable with negligence of neutral duty in furnishing coal, although expressions in the written opinions of several of the arbitrators seem to show that they were influenced in their decisions by the fact of such supply.

The present state of the law is summed up Professor T. E.

Holland, writing to the London *Times* in April last, as follows:

"It is admitted on all hands that a neutral power is bound not to permit the 'asylum' which she may grant to ships of war to be so abused as to render her waters a 'base of operations' for the belligerent to which these ships belong. Beyond this, international law speaks at present with an uncertain voice, leaving to each power to resort to such measures in detail as may be necessary to ensure the due performance of a duty which, as expressed in general terms, is universally recognized."

W. E. Hall, an English writer of equal authority, says, in his *Treatise:*

"Continued use is, above all things, the crucial test of a base, both as a matter of fact and as fixing a neutral with responsibility for acts in themselves innocent or ambiguous. . . . If a belligerent vessel belonging to a nation having no colonies carries on hostilities in the Pacific by provisioning in a neutral port, and by returning again and again to it *or to other similar ports without revisiting her own*, the neutral country practically becomes the seat of magazines of stores, which, though not warlike, are necessary to the prolongation of the hostilities waged by the vessel. She obtains as solid an advantage as Russia, in a war with France, would derive from being allowed to march her troops across Germany. She is enabled to reach her enemy at a spot which would otherwise be unattainable."

Mr. Hall's suppositious case, though distinguishable in some points, bears an extraordinary likeness to the procedure of the Baltic fleet. Indeed, it is difficult to resist the conclusion that the French Government is chargeable in two instances with violation of neutral duty—at least in the spirit, if not the letter of the law. The long stay of the Russians at Nossi Be, even if they remained constantly outside the three-mile limit, was made possible by supplies of food and water obtained from French territory. Whether they were delivered in small craft owned by the inhabitants or in dispatch boats of the fleet, the result was the same. The belligerent was enabled to drill and make preparations for naval operations. Added to this was

the fact, known to the French Government, that this formidable naval force was on its way to attack a power with which France was at peace.

As to the use of French harbors and waters in Indo-China, the case against France is even stronger. The prolonged stay at Kamrahn Bay for coaling, followed by similar operations in other French harbors, together with their nearness to the scene of coming naval action, made their use particularly dangerous to Japan. The French Government had knowledge months in advance of the sailing of the Russian fleet for the Far East. French harbors in Indo-China are on the direct route, and it was almost a certainty that the Russians would attempt to use them. Yet they permitted their naval force in these waters to remain so insignificant that it was impossible to enforce neutral obligations if the matter had come to the test of arms. The French plea that everything was done to enforce neutrality, in view of the great extent of coast, is therefore not supported by the facts.

Moreover, the establishment by Russia, if it be true, of a coal depot near Saigon, even if owned ostensibly by Russian citizens and not by the government, was an act which should not be permitted by a neutral. As Mr. Wharton has said in his Commentaries on Law (p. 360): "It is a breach of neutrality for a neutral to permit a permanent depot or magazine to be opened on its shores, on which a belligerent may depend for constant supplies."

But even if the visits of the Russians at Nossi Be and Kamrahn Bay did not separately involve unneutral conduct on the part of France, the fact that the voyage from Europe to Asia was practically a progress from one French harbor to another (without the use of which the expedition would have been an impossibility), stamps it as one transaction and fastens upon the government of France the charge of unneutral conduct, from the legal consequence of which it would have been difficult to escape, had the battle in the Straits of Korea ended in favor of the Russians. The case, taken as a whole,

seems to be a close parallel to that supposed by Hall in the passage quoted above. There was a "returning again and again" to French ports "without revisiting her own." She (Russia) was (is) enabled to reach her enemy at a spot which would be otherwise unattainable."

The history of this naval expedition, and the uncertain state of the law of neutrality applicable thereto, indicates impressively the need of a reform in this branch of the law. It is a subject which will undoubtedly be considered at the next Peace Conference, which will, in all probability, be convened on the termination of the war.

2. The present war seems also to have established a precedent as to the treatment of belligerent vessels seeking an escape after a naval engagement, and taking refuge in neutral ports. In the report of last year, reference was made to the disarmament of Russian warships which had resorted to German and Chinese ports in the Far East, and of their internment till the end of the war. The same practice has been followed by the United States government during the year just passed. The Russian cruiser "Lena" put into San Francisco harbor in September, 1904, evidently having escaped from the recent naval action. Inspection showing that it would require thirty days to repair her machinery, her commander was given the alternative of leaving in twenty-four hours or consenting to internment for the rest of the war. The ship was accordingly dismantled and now remains in San Francisco.

On June 2, 1905, after the naval battle in the Straits of Korea, three Russian cruisers, much injured from the effects of gun fire, appeared at Manila and asked leave to coal and make necessary repairs. Inspection showed that sixty days would be required for repairing one of the vessels and thirty for another. The President directed that the vessels should not be permitted to repair damage received in battle, and that they must leave within twenty-four hours from the time of receiving official notice. During this time they might take enough coal, if possible, to carry them to Vladivostok. Under instructions from St. Petersburg, the Russians submitted to

the alternative of internment for the rest of the war. The ruling as to repair of damage received in battle was criticised as strict, but it bids fair to be the rule adopted by states which are most scrupulous in their fulfilment of neutral duty.

The internment of escaping vessels of war follows the practice, which has long been observed as to armed forces on land in similar circumstances. Certain writers have argued against the application of the principle to ships, taking as their ground the peculiar conditions of maritime life and the extra territorial privileges accorded to public ships. In the last analysis their arguments will be seen to be based, rather on the safety and convenience of the neutral, than upon any idea of the fulfilment of neutral obligations. An armed force on land is obviously a source of danger, and is difficult to control. An armed ship in port, and under the surveillance of forts or neutral warships, is not likely to be. The disarmament of fugitive war vessels in neutral ports was advocated a hundred years ago by the two well known authorities on maritime law, Galiani and Azuni. In this connection it is interesting to note the victory of a principle so long contested.

3. Certain minor developments remain to be noticed. As to the matter of contraband, the Russian government, in consequence of the protests of the American and British governments, receded from its original determination to treat rice and foodstuffs as absolutely contraband, and on September 28, 1904, agreed to so regard them, only when destined for the "government of the belligerent power, its administration, army, navy, fortresses, naval ports or purveyors," and not so regard them if "addressed to private individuals." The decision of the Supreme Prize Court at St. Petersburg, in the case of the "Calchas," involving the question of the contraband character of cotton, held that the cotton was contraband because destined for a warlike purpose. The decision was therefore an admission that cotton is conditionally and not absolutely contraband, and reverses the position originally taken by Russia.

4. Russian cruisers have recently renewed the practice of sinking neutral prizes, where the captor did not consider it to be safe or expedient to bring the prize into port. English, German and Danish ships have been reported as suffering in this way, and the British government has lodged a renewed protest against a proceeding, which, it was understood, was to cease after the "Knight Commander" affair of the previous year.

In conclusion it should be stated that the committee has been obliged to conduct the consideration of its report by correspondence; and has not therefore be able to go over the forgoing report with the advantage of personal consultation. Mr. Venable and Mr. Barnett, while concurring in the conclusions of the report as to the right to make general arbitration treaties, are not now prepared to concur in all the arguments on that subject presented by the chairman. Mr. Lionberger does not concur in the conclusions of that part of the report. Owing to Mr. Kruttschnitt's absence, in Europe, we have not had the benefit of his assistance.

But inasmuch as the subject is one of interest and importance, it is deemed advisable to have the report printed and submitted to the Association in advance of the annual meeting, as provided in the by-laws.

All of which is respectfully submitted.

EVERETT P. WHEELER,
Chairman.

August 8, 1905.

We concur in the conclusions of the report.

RICHARD M. VENABLE,
JAMES F. BARNETT.

For presentation only.

ISAAC H. LIONBERGER.

NOTE.—By reason of the absence in Europe of Ernest B. Kruttschnitt, the other member of the committee, the subject matter of the foregoing report has not received his consideration.

REPORT

OF THE

COMMITTEE ON OBITUARIES.

To the American Bar Association:

The Committee on Obituaries report the names of members of whose death the committee has been notified since the last meeting as follows, viz.:

ARIZONA.

BARNES, WILLIAM H., ... Tucson.

CONNECTICUT.

*WAYLAND, FRANCIS, ... New Haven.

COLORADO.

LEE, HARRY H., ... Denver.
*MCCARTHY, TIMOTHY F., ... Denver.
*MCLEAN, LESTER, ... Denver.
WOLCOTT, EDWARD O., ... Denver.

DISTRICT OF COLUMBIA.

DOOLITTLE, WILLIAM H., ... Washington.
MILLER, WILLIAM J., ... Washington.

GEORGIA.

MCINTOSH, J. R., ... Atlanta.

ILLINOIS.

*HAMLINE, JOHN HENRY, ... Chicago.
MORAN, THOMAS A., ... Chicago.
ROSENTHAL, JULIUS, ... Chicago.
WILLIAMS, GUY P., ... Galesburg.

LOUISIANA.

*WENCK, ERNEST J., ... New Orleans.

MAINE.

*Peters, John A., ... Bangor.

MARYLAND.

*Lowndes, Lloyd, ... Cumberland.

MASSACHUSETTS.

Morse, George W., ... Boston.

MICHIGAN.

Lillibridge, Willard M., ... Detroit.

MISSOURI.

*Cunningham, Edward, Jr., ... St. Louis.
Sherwood, Adiel, ... St. Louis.

MONTANA.

Sanders, Wilbur F., ... Helena.

NEW JERSEY.

Dickinson, S. Meredith, ... Trenton.
Goble, L. Spencer, ... Newark.
*Grey, Samuel H., ... Camden.

NEW YORK.

Carter, James C., ... New York.
*Gordon, James Lindsay, ... New York.
*Isaacs, Myer S., ... New York.
*McKinley, Abner, ... New York.
*Turner, Herbert B., ... New York.

OHIO.

Blackford, Aaron, ... Findlay.
*Gunckel, Lewis B., ... Dayton.
Harris, Stephen R., ... Bucyrus.
*Harrison, Richard A., ... Columbus.

PENNSYLVANIA.

*Swain, Charles M., ... Philadelphia.

TEXAS.

Semple, J. M., ... Sherman.

WISCONSIN.

*Barnes, Lyman E., ... Appleton.

WYOMING.

Knight, Jesse, ... Cheyenne.

Respectfully submitted,

John Hinkley,
Selden P. Spencer.

Note.—This report includes those members of whose death the committee have been informed up to August 24, 1905. Obituary notices (including those of some members not in the above report) will be found near the end of this volume.

* Obituary notice published in the 1904 report.

REPORT

OF THE

COMMITTEE ON LAW REPORTING AND DIGESTING.

To the American Bar Association:

The discussion of the subject of reporting and digesting would be of more practical value if there were represented here the men who are engaged in making the reports and digests. Your committees have made many suggestions and many opinions have been expressed in the discussion of the subject by members of the Association, but the work of making the reports and digests is done by the official reporters in the various states and by the men employed for the purpose by the publishers of the series of reports which is common to all the states. These publishers have a definite plan of their own, and the state reports follow the traditions of their own localities, and the most that we can do is to offer suggestions and to express as well as we can the wishes of the Bar and their objection to existing conditions.

We have been seeking especially to emphasize the importance of uniformity of plan in the arrangement of digests and the practical necessity that has now become urgent for restricting the volume of reports. The Association, for want of authority in the matter and in the absence of any representation of the reporters themselves, has been unable to formulate and carry out any plan of uniformity, but they have suggested that the reporters of the several states should follow, so far as practicable, the plan that has been made familiar to the Bar in the reports and digests which are made for all the states alike, and there is a marked tendency in the later local digests to adapt themselves to the common plan, and this plan is one that has commended itself to the profession as consistent in logical order and well adapted to practical purposes.

With regard to the restriction of the volume of the reports, there has been a concurrence of opinion that something must

be done to meet conditions which are becoming intolerable, and yet there has been great difference of opinion as to what the remedy should be. Plans earnestly urged by some have been as strongly opposed by others.

On the one hand, there is the opinion that the Bar is entitled to know what has been decided by the courts, and on the other, that they must not be burdened with the purchase or the examination of opinions which are of no value or precedent in the development of the law. The truth is that conditions vary in different parts of the country, and a scheme that would prove entirely satisfactory in the older states would probably be impracticable in the newer states of the West. In these states where the average questions have been settled by repeated decisions, it may well be that a majority of the current cases should remain unreported, but in the newer states, where many questions are still unsettled by judicial decision, nearly every case has some feature which may be of interest to the Bar.

In Nebraska, they tried the experiment of allowing the judges to designate what cases should not be reported, and this was done with the cordial concurrence of the Bar; but after a year's trial, the Bar Association unanimously requested that the rule should be abrogated, and since then all the decisions have been reported.

The fact remains, however, that with the reporting of all the decisions of the higher courts only, the volume of the reports will become intolerably large, and the Bar of the whole country is interested in having the case law of all the states kept within reasonable limits, and this Association must continue to urge the necessity of taking some means to avoid the undue expansion of the reports.

The absolute control of the publication of their decisions ought not to be left with the judges themselves, and your committee last year was unwilling to approve of a resolution recommending this method of restricting the volume of the reports; but they did suggest, and respectfully insist, that the

judges could do much to relieve the situation. There are many cases in which a brief statement of the facts and the legal principles applied to them, with a reference to the authorities, would serve as well as a long opinion, and there is no need of long discussions of legal questions which have been substantially settled in earlier cases, nor of making long quotations from existing reports; and the judges may aid the reporters by designating the decisions which they think should not be reported, and especially by indicating the passages discussing the evidence, which may be omitted, stating only the conclusions.

It is with the reporters, however, that the burden of selecting and condensing the reports really rests, and the responsibility for making the selection is not one that the reporter willingly assumes. We have no council of law reporting here as they have in England, and the reporters do not represent the Bar, and they cannot, as individuals, exercise even their best judgment in withholding opinions from publication.

The reporters, as such, are not represented in this Association, and we have no control over their work, but we may suggest and ask that they should, in the first place, bear in mind that the reports are intended primarily as books containing the precedents in the development of the law. They are not for the information of the parties and counsel. The filed opinions are sufficient for that purpose. The purpose of a reported case is to serve in some way for the illustration or development of legal principles, which, on such cases, is often a matter of doubt. But there are many cases as to which there is no doubt. These cases, at least, should not be reported.

Opinions which are merely discussions of the evidence and conclusions of fact ought not to be reported in full. If they are reported at all, a summary of the facts and a statement of the conclusions is all that should be printed. There are many opinions containing conclusions of law that are of no value in the reports. There are cases in which familiar rules of law are applied to an ordinary state of facts, and unless the deci-

sion is that of a court of final appeal, a competent reporter may safely exercise his judgment in excluding these from the reports. Where a case contains a long discussion of the evidence, as well as an examination of the law, the report may be shortened by stating that the court considered the evidence and reached a certain conclusion.

There are many ways in which a competent reporter may restrict the volume of the reports without depriving the profession of any case or any point in any case that is of any real value to anyone, but the important matter is that it should be understood by reporters and by those who appoint them that the work of reporting requires knowledge and good judgment and no little patience and care. Some selection and condensation of the filed opinions must be made, and a good reporter must be able and willing to take the trouble to exclude from the reports cases which are of no permanent value to the profession.

In England, where the decisions are comparatively few, the greatest care is taken to have the reports contain only such decisions as are of real value and to condense the reports as far as is consistent with a clear understanding of the facts. The reporters are chosen by the Bar and feel themselves to be responsible to the Bar for the quality of the reports. And the greatest care is taken that the quality is not diminished by reason of the quantity. The choice of cases and the condensation of the reports is made a matter of careful consideration by well-trained men working together under well-recognized principles. Our state reporters have not the advantage of such co-operation, but in what is known as the Reporter System there is an organization in which competent men may be trained to work together upon a definite plan, and the profession has a right to ask and expect that these reports shall be made in view of the real purpose of reporting, and that opinions and parts of opinions that are of no use for that end shall be omitted. If the quality, rather than the quantity, of the reports is made the primary object, the value of

the reports will be increased and the profession will be relieved of much useless labor and expense.

There is another way in which the volume of the reports can be reduced, and that is by reducing the number of the decisions, and this can be done without loss to anyone by avoiding controversy over questions of practice. The practice is merely the machinery of the law, and the simpler it is the better. It has been found by experience that the attempt to regulate the practice in detail by elaborate codes of procedure has given rise to a large amount of litigation, and a very large proportion of the reports in the states having codes of procedure are occupied with cases on the construction of the statutes relating to matters of practice. It has been suggested by lawyers and by Bar Associations in the code states that the attempt to prescribe by statute the details of procedure be abandoned, and that in place of the codes there be enacted a statute giving a general outline of the procedure based upon the common law in existing traditions in the several states, and leaving details to be regulated by rules of court as occasion may require.

Rules of court are more flexible and are subject to judicial discretion and leave the court free to do substantial justice. Under such practice acts as those of Connecticut or New Jersey, and the rules of equity in the federal courts, for example, there is little controversy over questions of practice. Your committee is satisfied that the codes are responsible for a large part of the volume of the reports and believes that there is no more effective means of reducing the number of decisions than the simplification of the rules of practice by adopting short practice acts with rules of court in place of the elaborate codes of procedure.

EDWARD Q. KEASBEY,
WILLIAM T. BRANTLY,
ALEXANDER NEW,
JOHN MORRIS,
ROSCOE POUND,
Committee.

REPORT

OF THE

COMMITTEE ON PATENT, TRADE-MARK AND COPYRIGHT LAW.

COURT OF PATENT APPEALS.

To the American Bar Association:

At the meeting of the Association at Hot Springs, Virginia, in 1903, your Committee on Patent, Trade-mark and Copyright Law submitted a report on the subject of the creation of a Court of Patent Appeals, with a draft of a bill for the establishment of such a court. These documents were considered and discussed by the Association, and with some amendments of the draft as reported, they were approved and the committee was directed to use its best efforts to secure the passage of the bill by Congress. At the opening of the following session of Congress the bill was introduced in both houses and was referred in each to the Committee on Patents. It there met with some opposition, not in respect to the desirability and importance of the creation of a single court of last resort in patent causes, but in respect to the organization of the court. The bill proposed by your committee and approved by the Association contemplated a court of seven members, of whom one (the presiding judge) was to be appointed by the President and confirmed by the Senate; the other six to be federal judges already in office as circuit judges, and to be assigned to duty on the bench of the United States Court of Patent Appeals by the Chief Justice of the United States for periods at first of two, four and six years, and after that for periods of six years, so that there would be a designation of two new judges every two years.

Another bill, upon the initiative of a member of the Bar, was introduced in Congress providing for a court of last resort in patent cases to be made up of five judges to be appointed by the President and confirmed by the Senate.

The merits of these two plans were discussed before the committees of the House and Senate at several hearings; but the session passed without any action by either of the committees.

That discussion was not without some results of value in the estimation of your committee. It disclosed some obstacles which must be met, some objections which must be overcome, and some points in respect to which the bill as originally proposed by your committee can be improved.

At the meeting of the Association at St. Louis last year a brief report was made of what had been done, and the committee was directed to continue its efforts to secure the passage of the law. In obedience to these instructions your committee has carefully reconsidered the subject and has prepared a draft of a bill containing such changes of detail in the bill originally reported as appear to it to be wise.

The need of a single court of last resort for the trial of patent causes is urgent. Under our present system we have, practically, nine independent Supreme Courts in that department of the law. The fact that the Supreme Court has power to review the judgments of the Circuit Courts of Appeals in patent causes by *certiorari* is scarcely more than a nominal qualification of this statement. The process is so tedious that a patent can but rarely survive the proceedings. The number which have been heard by the Supreme Court in that way is so small that they count for nothing in the general administration of the law. It was quite generally anticipated at the outset that the Circuit Courts of Appeals would endeavor, by the application of some principle of comity, to secure substantial harmony of decision among themselves, and there is no doubt that the judges have made and do still make earnest efforts in that direction. But there are reasons why the har-

monizing of judicial decisions in that way is extremely difficult—well nigh impossible. A court of last resort has a responsibility for its decisions which does not belong to a court of first instance. It was soon found that upon difficult questions each United States Circuit Court of Appeals had to follow its own judgment. In the case of Mast, Foos Co. *vs.* Stover Manufacturing Co., 177 U. S. 485, the Supreme Court of the United States recognized the fact of the absolute independence in the last resort of each of the nine courts.

This divided final jurisdiction is more unfortunate in the case of patents than it would be in any other branch of the law. A patent is property existing alike throughout the United States. Questions of validity and infringement in repect to a single patent are liable to arise in numerous different circuits. That the same patent should be differently adjudicated in different circuits is a downright failure of justice in the administration of the law.

The individual wrongs resulting from this condition of affairs are of frequent occurrence and are constantly increasing. Within the personal experience of one of the members of your committee these two illustrations have occurred. In one a small manufacturer defended a patent suit on a plea of non-infringement successfully in the Circuit Court and the Circuit Court of Appeals. The patentee then went to another circuit and sued a user of another manufacturer's goods of similar character, and was successful in the Court of Appeals of that circuit. He then brought suit against a user of the first manufacturer's goods in the circuit where he had succeeded in his second suit. The first manufacturer attempted to set up his former judgment in bar of the suit against his customer, but his defense was overruled by the court. Meantime the patentee, by a publication of these facts far and wide, totally ruined the business of the little manufacturer.

In the other case a manufacturer defended his customer successfully in the Circuit Court and Court of Appeals. Notwithstanding this the patentees followed the manufacturer's

customers in nine different suits distributed over half as many circuits of the United States with the result of destroying the business of his rival manufacturer. This was made possible by the fact that the patentees were deriving a great income from their patent and could afford to be indifferent to the cost of patent suits while their adversary could not.

The just purpose of the law is not more to protect the rights of patentees than to protect the public against invalid patents. In order to do business with safety it is indispensable that the manufacturers and users shall be able to ascertain with reasonable certainty whether or not a given patent is valid or a given article of manufacture is an infringement. But it is not too much to say that upon these questions a prudent lawyer does not dare to give an opinion where the case presents any debatable question. Very often he is compelled to say that it will depend very much upon where the suit is brught. All this is no reflection upon the eminent men who sit in the Circuit Courts of Appeals. It is undoubtedly true that no abler body of patent judges ever sat on the bench. The evil lies in dividing them up into nine separate courts of final jurisdiction.

The need of a single court of a last resort for the trial of patent causes has been realized for a number of years by those most familiar with the subject. But there has been no efficient and concerted action on the subject until it was taken up by the patent section of the American Bar Association, for the reason, mainly, that thoughtful patent lawyers were afraid of the experiment of a court consisting of judges appointed in the manner provided in the Constitution for that court, and made up, as it would almost certainly be, of patent lawyers. Good lawyers, who have spent their lives in trying patent causes, have learned that the first requisite of a good patent judge is that he should be thoroughly equipped in the *general law—a good judge*, first, with the aptitude for patent law added.

The same problem would present itself in organizing a court to deal with any other special branch of the law—such as

admiralty, insurance or bankruptcy, for example. A lawyer who had spent his life in one of these fields to the exclusion of the general practice would not be the best judge for a court having jurisdiction of that subject matter. A great engineer once said to a class of graduates in electrical engineering that the best electrical engineer was about 90 per cent. *engineer* and 10 per cent. *electrical* engineer. In similar phrase it may be said that the best judge for patent causes will be found in a man who is 90 per cent. lawyer and 10 per cent. patent lawyer. No matter what the special jurisdiction of a court may be, the first requisite of the greatest usefulness in the office is all-round experience and wide familiarity with the general principles of the law. That wants to be coupled, of course, with such special education, or special aptitude, or both, as will fit the judge for the particular work which he has to do. How are such men to be found?

The main underlying thought of the scheme proposed by your committee is that there is no possible way in which to find the judges best qualified to sit in a United States Court of Patent Appeals with as high a degree of certainty as to select federal judges who have demonstrated in the actual discharge of duty their possession of the aptitude required in a patent judge. To select a lawyer thoroughly equipped in the whole field of the law, put him on the bench and test his faculty for trying patent suits by actual service, is the only sure method of making a good patent judge. Under the provisions of the proposed bill, the Chief Justice will be required, once in three years, to select from the seventy-four or more federal judges in office as circuit or district judges two to sit in the United States Court of Patent Appeals for six years each. There is no other such body of men in the world from which to make a selection; no other man in the world is so competent to make it. They would form an ideal Court of Patent Appeals. If these views are well-founded, there is good reason to hesitate before committing the vast interests bound up in the administration of the patent law irrevocably to the hands of a few patent lawyers, however carefully they may be selected.

Another consideration appears to your committee to have weight. If Congress once creates a court of last resort in patent causes made up of judges appointed for life, it will be an unchangeable court in its constitution. But a court organized in the manner provided in the proposed bill will be subject to changes by Congress as experience may suggest. The judges, or part of them, may be made appointive; the manner of selection, or term of service, may be changed. We would secure at once a bench thoroughly equipped for the work, and retain, at the same time, power to improve it if experience should show the advisability of change.

It was because your committee was deeply impressed by these considerations that the plan of organization set forth in its original report was adopted. By that plan the court was to consist of seven members, of whom the presiding judge only was to be appointed by the President and confirmed by the Senate, as required by the Constitution in the creation of federal judges. The other six members were to be designated from among the circuit judges of the United States by the Chief Justice of the United States; the first designation to be of two for two years, two for four years, and two for six years, and after that the designation to be of two every two years. In this respect your committee has come to the opinion, after much discussion and correspondence with members of the Bar, and after mature reflection, that two changes can be made with advantage. The first of these relates to the number of judges. Seven is, for several reasons, a very desirable number in such a court. It was thought, also, that with the concentration of all the final jurisdiction in patent causes in a single court it would not be possible for less than seven judges to do the work. But a careful comparison of the matter embraced in the opinions of the Supreme Court during a year with the matter embraced in the opinions of all the Circuit Courts of Appeals in the United States in patent causes during the same year has led to the conclusion that five judges could, for the present at least, do all the work.

The other point in which a change of the original scheme is here suggested is in the field of selection from which judges are to be designated by the Chief Justice for service in the new court. There are in the United States a number of district judges of very high reputation and ability as patent judges. It is exceedingly important to be able to make up the new court with as little disturbance as possible of the general business of the federal courts, and with the creation of the least possible number of new judgeships. These considerations seem to your committee to justify the comparatively small alteration of the original plan made in the draft of bill now reported.

The main argument urged against this plan has been that the law would be unconstitutional for the reason that the Constitution requires that all federal judges shall be appointed by the President. It appears to us to be a sufficient answer to this objection to say that all the judges of the proposed court will be appointed by the President and confirmed by the Senate. The four judges to be designated by the Chief Justice will be either district or circuit judges already in office by that mode of creation. It is not necessary that a judge shall bear the name of the court in which he sits. One law may provide for his creation, and another for the creation of the court. We have a United States Circuit Court of Appeals, but no judges created by that title. All the judges who sit in that court are Supreme Court justices or circuit or district judges. It would undoubtedly be within the power of Congress to create the office of judge of the United States Circuit Court of Appeals, and provide for the appointment of one such judge in each circuit to sit with any designated number of circuit judges or district judges. The creation of a judgeship is one act of legislative power; the creation of a court is another act of the same power. It is for the same power again to equip the court by providing what judges shall sit in it. The proposed court is so precisely analogous in the method of its organization to the present Circuit Court of Appeals that there

appears to your committee to be no room for argument on that question.

Respectfully submitted,

ROBERT S. TAYLOR,
ARTHUR STEUART,
LYSANDER HILL,
JOSEPH R. EDSON,
Committee.

Mr. Francis Rawle was unable to be present at the meeting of the committee and therefore does not join in this report.

A BILL

TO ESTABLISH A COURT OF PATENT APPEALS.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby created a United States Court of Patent Appeals, which shall consist of five judges, of whom four shall constitute a quorum, and shall be a court of record with jurisdiction as is hereinafter limited and established. Such court shall prescribe the form and style of its seal and the forms of its writs and other process and procedure as may be conformable to the exercise of its jurisdiction as shall be conferred by law. It shall have the appointment of the marshal of the court, who shall have the same powers and perform the same duties under the regulations of the court as are now provided for the marshal of the Supreme Court of the United States, so far as the same may be applicable. The court shall also appoint a clerk, who shall have the same powers and perform the same duties now possessed and performed by the clerk of the Supreme Court of the United States, so far as the same may be applicable. The salary of the marshal of the court shall be three thousand five hundred dollars a year, and the salary of the clerk shall be five thousand dollars a year, both to be paid monthly in twelve equal payments. The costs and

fees now provided by law in the Supreme Court of the United States shall be the costs and fees in the United States Court of Patent Appeals; and the same shall be collected, expended, accounted for and paid over to the Treasury Department of the United States in the same manner as is provided by law in respect to the costs and fees in the Supreme Court of the United States. The court shall have power to establish all needful rules and regulations for the conduct of its business.

SEC. 2. That the President of the United States, by and with the advice and consent of the Senate, shall appoint a president judge of said United States Court of Patent Appeals; and, as vacancies occur, shall in like manner appoint others to fill such vacancies from time to time. The acceptance of that office by a judge of the Circuit Court or District Court of the United States shall vacate his office as circuit or district judge.

SEC. 3. That upon the taking effect of this act the Chief Justice of the United States shall designate from among the judges of Circuit Courts of the United States and the District Courts of the United States two judges to sit as associate judges of the United States Court of Patent Appeals for three years from the first day of the first term thereof, and two others to sit as associate judges of the same court for six years from the first day of the first term thereof. And after that, as the periods expire for which such designations shall have been made, the Chief Justice of the United States shall fill the vacancies thus occurring by designation of other judges from among the judges of the Circuit Courts and the District Courts of the United States to sit for periods of six years each. In case of the death or disability of any associate judge of the said court the Chief Justice shall designate another judge of a Circuit Court or a District Court of the United States to sit for the unexpired period for which his predecessor had been designated. No judge shall be designated to sit as associate judge in the United States Court of Patent Appeals for more than one period of six years continu-

ously; but any associate judge of said court, whose period of service shall expire after not more than three years of continuous service, may be designated to sit for a further period of six years. The designation of a judge of the Circuit Court or District Court of the United States to sit as associate judge of the United States Court of Patent Appeals and his service in that court shall not vacate his office as judge of the Circuit Court or District Court, as the case may be.

SEC. 4. That a term of the United States Court of Patent Appeals shall be held annually at the city of Washington, beginning on the second Monday of October in each year, and the same may be adjourned from time to time as the court shall order. If at any time for the meeting of the court a quorum of the judges shall not be present, the judges present may adjourn the court, and, if necessary, adjourn again from time to time until a quorum appear. If at any sitting of the court the president judge shall be absent, the associate judge senior in commission as judge of the Circuit Court of the United States, or senior in age, in case of commissions of even date, shall preside. If no judge of a Circuit Court shall be present, the associate judge senior in commission as a judge of a District Court of the United States, or senior in age, in case of commissions of even date, shall preside. Until it shall be otherwise provided by Congress, the sessions of the court shall be held in a building or rooms to be provided by the marshal of the District of Columbia, under the direction and approval of the Attorney-General of the United States. The court shall by order authorize its marshal to employ such deputies and assistants for himself and the clerk of the court, and such criers, bailiffs and messengers as the business of the court shall require, and to pay the salaries of such employees at rates of compensation not exceeding those paid for similar services in the Supreme Court of the United States, and to pay all other necessary incidental expenses of the court. The president judge and each of the associate judges shall be entitled to employ a clerk, whose salary, at a rate not exceeding

that allowed the clerks of the Chief Justice and associate justices of the Supreme Court, shall be paid as part of the expenses of the court. The court shall have power, in its discretion, to appoint a reporter, and to fix by order his salary or other compensation, and direct the form and manner of the official publication of its decisions.

SEC. 5. That the president judge of the United States Court of Patent Appeals shall receive a salary of twelve thousand dollars per year. The circuit judges of the United States sitting as associate judges of the same court shall each receive the salary allowed him by law as circuit judges and in addition thereto during the time of his service as associate judge of the United States Court of Patent Appeals, but not longer, such additional sum as will make his entire compensation during that service eleven thousand five hundred dollars per annum. The district judges sitting as associate judges of the United States Court of Patent Appeals shall each receive the salary allowed to him by law as district judge, and, in addition thereto, during the term of his service as associate judge of the United States Court of Patent Appeals, but not longer, such additional sum as will make his entire compensation during that service eleven thousand five hundred dollars per annum. All the said salaries shall be payable in twelve equal monthly instalments.

SEC. 6. That the United States Court of Patent Appeals shall have jurisdiction to hear and determine appeals and writs of error from final judgments and decrees in the Circuit Courts of the United States in cases arising under the laws of the United States relating to patents for inventions and to copyrights, and from final judgments and decrees in cases arising under the laws of the United States, relating to patents for inventions and to copyrights rendered by any other court having jurisdiction under the laws of the United States to hear and decide such cases in the first instance. All such appeals shall be taken within six months after the entry of the order, judgment or decree sought to be reviewed. The prac-

tice, procedure and forms to be observed in the taking, hearing and determination of such appeals and writs of error shall conform to the practice, procedure and forms observed in like cases in the Supreme Court of the United States, subject to such rules and regulations as shall be prescribed by the court for itself.

SEC. 7. That whenever, by an interlocutory order or decree in a Circuit Court of the United States or other court having jurisdiction under the laws of the United States to hear and decide in the first instance cases arising under the patent and copyright laws, in a case in which an appeal may be taken from the final decree of such court to the United States Court of Patent Appeals, an injunction or restraining order shall be granted, or refused, or continued, or vacated, or modified, or retained without modification after motion to modify the same, an appeal may be taken from such order or decree by the party aggrieved to the United States Court of Patent Appeals: *Provided*, That the appeal must be taken within thirty days from the entry of such order or decree; and it shall take precedence in the Appellate Court; and the proceedings in other respects in the court below shall not be stayed unless otherwise ordered by that court, or the United States Court of Patent Appeals, or a judge thereof, during the pendency of such appeal.

SEC. 8. That the president judge and the associate judges of the United States Court of Patent Appeals shall each exercise the same powers in term and in vacation in the allowance of appeals, *supersedeas* orders and other matters incidental to the jurisdiction and business of the court as are now exercised by the Chief Justice and associate justices of the Supreme Court of the United States in relation to the business and jurisdiction of that court.

SEC. 9. That the decisions of the United States Court of Patent Appeals in all cases within its appellate jurisdiction shall be final, except that it shall be competent for the Supreme Court of the United States to require, by *certiorari* or other-

wise, any such case to be certified to it for its review and determination with the same power and authority in the case as though it had been carried by appeal or writ of error from the trial court directly to the Supreme Court.

SEC. 10. That whenever any case shall have been certified from the United States Court of Patent Appeals to the Supreme Court of the United States, by *certiorari* or otherwise, it shall be, upon its determination by the Supreme Court, remanded to the Circuit Court of the United States or other court in which it originated for further proceedings to be taken in pursuance of such determination. And in every case determined by the United States Court of Patent Appeals upon appeal or writ of error, the case shall be remanded to the Circuit Court of the United States or other court from whence it came, for further proceedings to be taken in pursuance of such determination.

SEC. 11. That all appeals and writs of error in cases in which appellate jurisdiction is by this act conferred upon the United States Court of Patent Appeals which shall have been pending without hearing in the United States Circuit Courts of Appeals or other courts of original jurisdiction for not more than three calendar months prior to the taking effect of this act shall be transferred from such Circuit Courts of Appeals or other courts to the United States Court of Patent Appeals and be heard and determined in that court as though they had been taken there from the trial courts by appeal or writ of error; all other appeals and writs of error in cases in which appellate jurisdiction is by this act conferred upon the United States Court of Patent Appeals which shall be pending in the United States Circuit Courts of Appeals or other courts of original jurisdiction at the time of the taking effect of this act shall remain and be heard and determined by the courts in which they may be pending, respectively, as though this act had not been passed.

SEC. 12. That after the taking effect of this act no appeal or writ of error shall be taken from any circuit court or other

court of the United States to any United States Circuit Court of Appeals in any case in which an appeal or writ of error may be taken to the United States Court of Patent Appeals under the provisions of this act.

SEC. 13. That all laws and parts of laws inconsistent with the provisions of this act are hereby repealed.

SEC. 14. That this act shall take effect and be in force on the day of July, nineteen hundred and six.

REPORT

OF THE

COMMITTEE ON PATENT, TRADE-MARK AND COPYRIGHT LAW.

EXTENSION OF PATENTS.

To the American Bar Association:

At a previous meeting the following resolution was adopted by the Association:

"WHEREAS, Section 18 of the Patent Act of 1836 provided for the extension of letters patent;

"WHEREAS, Said section was repealed in 1861 upon a recommendation contained in a report of a Conference Committee without any previous discussion or consideration thereof by either the Senate or the House of Representatives, or either of the committees thereof;

"WHEREAS, Many inventors are prevented through causes beyond their control, or by litigation, from receiving suitable rewards for their inventions during the original term of their patents;

"*Resolved*, That the Committee on Patent, Trade-mark and Copyright Law be requested to submit a report at the next annual meeting of the Association upon the subject of the passage by Congress of a general law for the extension of patents in proper cases beyond the term of the original grant, and if they shall report favorably to the passage of such law, to submit a bill to be laid before Congress."

Pursuant to the foregoing resolution your committee begs leave to report as follows:

The act of 1836 contained in section 18 a provision for the extension of patents.

This law remained upon the statute books from 1836 to 1861, and during that time afforded valuable protection to

many meritorious inventors who had failed to obtain a suitable reward from their inventions during the first term of their patents.

During the years 1860–61 an amendment to the Patent Law was prepared and a general bill was passed containing many provisions. One of these provisions, section 17, repealed section 18 of the act of 1836 relating to extension. The history of this legislation and the records of Congress and the Patent Office have been searched in vain to find a reason for this repeal, but none has been found. The section repealing section 18 of the act of 1836 relating to extension was not a part of the original bill, but was introduced by a Conference Committee. There does not seem to have been any demand for the legislation, no evil to be avoided, no desirable object to be accomplished. Experience has proven that the repeal of this section was a clear error of judgment committed through apparent ignorance of the salutary and beneficial effect of the Extension Law.

A law permitting extension is an important requisite of the Patent Law of the United States. Inventors are as a class in advance of their age. They enter a field already occupied by old devices, which in most cases must be displaced before the new invention can be introduced. This is a work of time, during which the patent is running, and when the public has finally come to realize the value of the invention, the patent is often ready to expire. Or, if the invention goes sooner into use, the patent is infringed, and litigation must be begun and prosecuted to the end before the inventor can control the use of his invention and realize a profit from it. This procedure will often consume the entire term of seventeen years.

In granting extensions of patents it is important that they should only be granted in proper cases, and that the rights of the public should be carefully guarded so as to prevent the undue creation of oppressive monopolies.

An application for an extension should require

1. Evidence that the patent was valid when granted.

2. That the inventor has, through no fault of his own, reaped but a small reward from the invention, either because he was ahead of his age or because the patent was infringed and litigation to sustain the patent consumed many years of its life.

3. That no rights in others have arisen which would make it inequitable to extend the patent.

4. That the public will be benefited by the granting of the extension.

5. Application for extension should be published and everyone having an interest given an opportunity to come in and oppose the extension if there is just cause for doing so. If an opposition is filed and on evidence the Commissioner decides that the extension should be allowed or refused, the opponent or the patentee should be permitted an appeal to the Court of Appeals of the District of Columbia in usual course to review the decision of the Commissioner.

6. The Commissioner of Patents should always exercise discretion as to the granting of extensions, and should do so only in cases where the proofs conform to the foregoing requirements.

Your committee proposes the following bill, which it believes will effect the results above indicated as desirable:

A BILL

To Amend Sections 4924, 4925, 4926 and 4927 of the Revised Statutes of the United States Relating to Patents.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4924 be amended to read as follows:

"Section 4924. Where the patentee of any invention or discovery, the patent for which was granted within seventeen years and twelve months preceding the date of the passage of this act, shall desire an extension of his patent beyond the

original term of its limitation, he shall make application therefor in writing to the Commissioner, setting forth the reasons why such extension should be granted; and he shall also furnish a written statement, under oath, of the ascertained value of the invention or discovery, and of his receipts and expenditures on account thereof, sufficiently in detail to exhibit a true and faithful account of the loss and profit which have in any manner accrued to him by reason of the invention or discovery. And such application shall be filed not more than twelve months nor less than ninety days before the expiration of the original term of the patent, and no extension shall be granted after the expiration of the original term."

SEC. 2. That section 4925 be amended to read as follows:

"SEC. 4925. Upon the receipt of such application and the payment of the duty required by law, the Commissioner shall cause to be published in the Official Gazette of the United States Patent Office, for at least thirty days prior to the date set for hearing the case, a notice of such application and of the time and place when and where the same will be considered, that any person may appear and show cause why the extension should not be granted."

SEC. 3. That section 4926 be amended to read as follows:

"SEC. 4926. Upon the receipt of such application the Commissioner shall refer the case to the principal examiner having charge of the class of inventions to which it belongs, who shall make to said Commissioner a full report of the case, and particularly whether the invention or discovery was new and patentable when the original patent was granted."

SEC. 4. That section 4927 be amended to read as follows:

"SEC. 4927. The Commissioner shall, at the time and place designated in the published notice, hear and decide upon the evidence produced both for and against the extension; and if it shall appear to the satisfaction of the Commissioner that the patentee, without neglect or fault on his part, has failed to obtain from the use and sale of his invention or discovery a reasonable remuneration for the time, ingenuity and expense bestowed upon it and the introduction of it into use, and that it is just and proper, having due regard to the public interest, that the term of the patent should be extended, the Commissioner shall make a certificate thereon, renewing and extend-

ing the patent for such a term as he may deem just and proper, not to exceed seventeen years from the expiration of the first term. Such certificate shall be recorded in the Patent Office, and thereupon such patent shall have the same effect in law as though it had been originally granted for and including the extended term."

From the decision of the Commissioner of Patents for or against the application, the opponent or the applicant may appeal in due course to the Court of Appeals of the District of Columbia, which court shall have the power to review and reverse or affirm the decision of the Commissioner; but if the Commissioner's decision be in favor of the application, the extension shall be granted subject to be set aside by the Court of Appeals if it shall reverse the decision of the Commissioner.

The committee also submits Senate document No. 6, Fifty-ninth Congress, special session.

July 17, 1905.

R. S. TAYLOR,
ARTHUR STEUART,
LYSANDER HILL,
JOSEPH R. EDSON.

Mr. Francis Rawle was unable to be present at the meeting of the committee and therefore does not join in this report.

REPORT

OF

DELEGATE TO COPYRIGHT CONFERENCE.

To the President and Members of the American Bar Association:

Gentlemen:—On the 27th day of April, 1905, I received a notice from the Secretary of this Association that I had been appointed by the President of the Association as a delegate to a Conference on Copyright, to be held in New York City, May 31 to June 2, 1905, inclusive, which had been called by the honorable Librarian of Congress for the purpose of a general discussion of desirable amendments to the Copyright Law.

I was unable to attend all of the meetings of this Conference, but I did attend one of the meetings, the final and most important one. I found gathered at that meeting the following gentlemen representing the following organizations:

LIBRARIAN OF CONGRESS, Herbert Putnam.

REGISTER OF COPYRIGHTS, Thorvald Solberg.

TREASURY DEPARTMENT, Charles P. Montgomery.

AMERICAN (AUTHORS') COPYRIGHT LEAGUE, Richard R. Bowker, Vice-President; Robert Underwood Johnson, Secretary.

AMERICAN DRAMATISTS' CLUB, Bronson Howard, President; Joseph I. C. Clarke.

AMERICAN INSTITUTE OF ARCHITECTS, Glenn Brown, Secretary.

AMERICAN LIBRARY ASSOCIATION, Frank P. Hill, Vice-President; Arthur E. Bostwick.

AMERICAN NEWSPAPER PUBLISHERS' ASSOCIATION, John Stewart Bryan, Louis M. Duvall, Don C. Seitz.

AMERICAN PUBLISHERS' COPYRIGHT LEAGUE, William W. Appleton, President; Charles Scribner, Treasurer.

ARCHITECTURAL LEAGUE OF AMERICA, D. Everett Waid.

ASSOCIATION OF AMERICAN DIRECTORY PUBLISHERS, W. H. Bates, Secretary.

ASSOCIATION OF THEATRE MANAGERS OF GREATER NEW YORK, Charles Burnham, First Vice-President; Henry B. Harris, Secretary.

INTERNATIONAL ADVERTISING ASSOCIATION, Will Phillip Hooper.

INTERNATIONAL TYPOGRAPHICAL UNION, J. J. Sullivan, Chairman I. T. U. Copyright Committee; P. H. McCormick, President, and George J. Jackson, Organizer, of New York Typographical Union No. 6.

LITHOGRAPHERS' ASSOCIATION (EAST), A. Beverly Smith, Secretary; Robert M. Donaldson.

MANUSCRIPT SOCIETY, Miss Laura Sedgwick Collins (charter member), Delegate.

MUSIC PUBLISHERS' ASSOCIATION OF THE UNITED STATES, George W. Furniss, Chairman Copyright Committee; Walter W. Bacon.

NATIONAL ACADEMY OF DESIGN, Frank D. Millet.

NATIONAL EDUCATIONAL ASSOCIATION, George S. Davis, Associate City Superintendent of Schools.

NATIONAL INSTITUTE OF ARTS AND LETTERS, Edmund Clarence Stedman, President; Brander Matthews.

PERIODICAL PUBLISHERS' ASSOCIATION OF AMERICA, Charles Scribner.

PHOTOGRAPHERS' COPYRIGHT LEAGUE OF AMERICA, B. J. Falk, President; Pirie MacDonald.

PRINT PUBLISHERS' ASSOCIATION OF AMERICA, Albert Smith, President; W. A. Livingstone, Secretary.

SOCIETY OF AMERICAN ARTISTS, John LaFarge, President; John W. Alexander.

THE SPHINX CLUB, Will Phillip Hooper.

UNITED TYPOTHETÆ OF AMERICA, Isaac H. Blanchard, of Executive Committee.

Six sessions during three days were spent by these gentlemen in discussing the needs of their individual branches of business for protection under the Copyright Law. Each of them had some particular grievance, and each of them felt that their interests were not sufficiently safeguarded under the existing statute. All of the suggestions made by all of the delegates were taken down stenographically by a reporter who was present. These stenographic notes have been written out and are in the possession of the Librarian of Congress, who is preparing a digest of them for the purpose of making it the basis of a draft of a new copyright law, which will aim to satisfy the needs of all those interested in the subject.

The preparation of a suitable bill to embody desirable provisions for the carrying out of the desires of the various persons interested is a difficult and technical task. I have been requested by the Librarian of Congress to co-operate with him and the Register of Copyrights in the work of framing this measure. They desire that the bill shall be prepared and ready for presentation to another meeting of the persons interested, which will be held in New York about the 1st of October. I shall be glad to give to this work such time and such powers as I have at my disposal, but I feel that the task is so great and so responsible that I should be much gratified if this Association would appoint a committee, upon which I should be glad to serve, consisting of at least three members, who may co-operate with the Librarian of Congress in giving to such a bill as he may prepare the criticism and reconstruction which it is likely to need and which the great importance of the subject will justify.

It is the desire of the Librarian of Congress that the bill shall be formulated and submitted to Congress at the beginning of the long session in December next. It is doubtful if this can be satisfactorily accomplished, first, because the labor will be very considerable, and, secondly, because the by-laws of the American Bar Association prohibit the endorsement by our Association of any measure which has not been formulated

in final shape and submitted to the members of the Association in print at least fifteen days prior to an annual meeting, and has then been endorsed by the Association at a regular annual meeting. It is probable, however, that the work of your committee will result in formulating a bill which may ultimately be accepted by the Association, and it is not likely that any such bill will be passed by Congress before the next annual meeting of the Association, when it may be submitted and endorsed by this body.

Respectfully submitted,

ARTHUR STEUART.

REPORT

OF THE

COMMITTEE ON UNIFORM STATE LAWS.

To the American Bar Association:

We are glad to be able to report that five more states have adopted the Negotiable Instruments Law since our last annual meeting, making in all thirty jurisdictions of the union in which this law is in force, consisting of twenty-eight states, one territory and one district.

The full list is as follows:

New York Laws of 1897, ch. 612; became law May 19, 1897.

New York Laws of 1898, ch. 336; became law April 26, 1898.

Connecticut Laws of 1897, ch. 74; approved April 5, 1897.

Colorado Laws of 1897, ch. 64; approved April 20, 1897.

Florida Laws of 1897, ch. 4524; approved June 1, 1897.

Massachusetts Laws of 1898, ch. 533; to take effect January 1, 1899.

Massachusetts Laws of 1899, ch. 130; to take effect March 6, 1899.

Maryland Laws of 1898, ch. 119; approved March 29, 1898; went into effect June 1, 1898.

Virginia Laws of 1897-8, ch. 866; approved March 29, 1898.

Rhode Island Laws of 1899, ch. 674; to take effect July 1, 1899.

Tennessee Laws of 1899, ch. 94; to take effect May 15, 1899.

North Carolina Laws of 1899, ch. 733; went into effect March 28, 1899.

Wisconsin Laws of 1899, ch. 356; to take effect May 15, 1899.

North Dakota Laws of 1899; approved March 7, 1899.

Utah Laws of 1899, ch. 149; to take effect July 1, 1899.

Oregon Laws of 1899, Senate Bill 27; approved February 16, 1899.

Washington Laws of 1899, ch. 149; went into effect March 22, 1899.

District of Columbia Laws of 1899, U. S. Stats.; approved January 12, 1899.

Arizona R. S. 1901, Title XLIX, §§ 3304-3491; to take effect September 1, 1901.

Pennsylvania Laws of 1901, ch. 162; approved May 16, 1901.

Ohio Laws of 1902, Senate Bill 10; to take effect January 1, 1903.

Iowa Laws of 1902, ch. 130; approved April 12, 1901.

New Jersey Laws of 1902, ch. 184; approved April 4, 1902.

Montana Laws of 1903, ch. 121; approved March 7, 1903.

Idaho Laws of 1903, Senate Bill 86; approved March 10, 1903.

Kentucky Acts of 1904, ch. 102; to take effect June 13, 1904.

Louisiana Acts of 1904, ch. 64; to take effect August 1, 1904.

Kansas Laws of 1905, ch. 310; approved March 7, 1905; to take effect June 8, 1905.

Wyoming Laws of 1905, ch. 43; to take effect February 15, 1905.

Missouri Laws of 1905, p. 243; approved April 10, 1905; to take effect June 16, 1905.

Michigan P. A. 1905, Act 265; approved June 16, 1905; to take effect September 10, 1905.

Nebraska Sess. Laws 1905, ch. 83; approved April 1, 1905; to take effect August 1, 1905. In Comp. Laws, 1905, ch. 41.

The Fifteenth Conference of Commissioners on Uniform State Laws was held in the Mathewson Hotel at Narragansett Pier, August 18, 19, 21 and 23, 1905. There were eight more states represented than last year, and fifteen more commissioners were present, together with a few members of the Committee on Uniform State Laws. They should all attend these Conferences, and we are requested to say in this report that the Conference of Commissioners on Uniform State Laws respectfully urges their attendance at all their Conferences.

The Uniform Sales Act, drafted for the Conference by Prof. Samuel Williston of the Harvard Law School, was again taken up for consideration with the draftsman, with the changes recommended by him and the Committee on Commercial Law. It was passed upon section by section, and in its present form, after sundry amendments and after three years' careful consideration by the Conference, is now again continued until the next Conference. It is now to be printed and distributed throughout the country for final consideration by commercial bodies, experts in this branch of the law, and all others interested, before its final adoption next year, for recommendation to the legislatures of the various states of the union for adoption. It is earnestly requested that anyone having any amendment to suggest, communicate with the draftsman, Prof. Williston, Harvard Law School, Cambridge, Mass.

Prof. Williston and Barry Mohun, Esq., of the Washington, D. C., Bar, the experts employed by the Conference for that purpose, submitted their draft of a Uniform Act Concerning Warehouse Receipts. It was taken up for consideration with Mr. Reid, the Secretary of the Warehousemen's Association. It was thoroughly examined, section by section, after it had been reported from the Committee on Commercial Law.

Printed copies in its present form will be distributed throughout the United States among warehousemen, law school professors, members of the Bench and Bar and others. Suggestions are earnestly requested as to desirable additions, changes or amendments, in order that the act may be made as

complete as possible for adoption at next year's meeting. The same draftsmen were also authorized to draft a Uniform Act Concerning Bills of Lading for submission to the next Conference.

Dean Ames, of the Harvard Law School, who has agreed to draft a Uniform Act Concerning Partnerships, asked the Conference whether it is proposed to draft such an act upon the legal theory or the mercantile theory of the nature of a partnership, indicating his preference for the mercantile theory. It was resolved, by a unanimous vote, that the act be drafted upon the mercantile theory, that a partnership is a legal entity.

At the last annual meeting, so much of the report of the Committee on Jurisprudence and Law Reform as referred to state taxation upon property actually within the state only was referred to the Committee on Uniform State Laws.

The annual reports of the American Bar Association did not reach the members of the Committee on Uniform State Laws until a few days before they started to attend this meeting, and consequently there has been no time or opportunity to enter into a consideration of this important subject.

We recommend that the committee be allowed to report later.

Respectfully submitted for the committee,

AMASA M. EATON,
Chairman.

REPORT

OF THE

COMMITTEE ON INSURANCE LAW.

MAJORITY REPORT.

To the American Bar Association:

Your Committee on Insurance Law respectfully report:

The legal questions relating to the business of insurance are so numerous as to render impracticable a reference to any except those of the greatest importance. The business is of stupendous proportions. The amount of insurance of all kinds in force in the United States approximates $50,000,000,000. The aggregate assets of the insurance companies approximate $3,000,000,000. The American people pay annually for insurance of all kinds approximately $1,000,000,000, and they received from the companies during the year ending December 31, 1904, approximately $800,000,000. These figures do not show the amount of insurance at risk in, nor the aggregate assets of, the many fraternal beneficiary associations and local mutual fire insurance companies.

It is said that the general public possesses but a limited amount of information about insurance, and it is probable that most of the readers of this report do not know even the names of the companies in which they are insured. The total number of persons who carry insurance cannot be definitely ascertained, but a fair estimate is 20,000,000. The number of people in touch with the various companies transacting the insurance business of the United States, the vast sum annually paid for insurance and the magnitude of the resulting business, justify whatever efforts may be put forth to secure a reduction in the cost of insurance and the utmost publicity with respect to corporations that take this enormous sum from the people

annually. Cheaper rates and greater publicity are the two primary reasons for governmental interference between the companies and their patrons.

Sound public policy encourages insurance in all its branches. Through life insurance provision is made against the infirmities of age, financial misfortune and for the care of wife and children. Through fire insurance companies, funds in the nature of a tax are collected from which those contributing are indemnified against loss by fire. Publicity is therefore demanded to prevent fraud and to afford the insuring public knowledge that the companies to which they pay their money, either for life, fire, accident or any other kind of insurance, are solvent and conducting their business in accordance with law and sound business policy. Oversupervision, excessive and inequitable schemes of taxation and extravagant business methods increase the cost to the insured of the protection which he seeks through his insurance policies.

Your committee have sought information with regard to the business and the related legal problems from all available sources; from the insurance commissioners of the several states, from insurance officials, from the insurance journals and the public press. Commissioner Garfield, of the Bureau of Corporations, has placed at the committee's disposal much information collected and compiled by him and his efficient assistants.

President Roosevelt's Tribute to the American Bar Association.

The President said to your committee that he looks to the American Bar to keep the people properly informed upon the legal phases of all public questions; that he recognizes in the Bar a powerful ally of his policy toward corporations. He declared that this Association exerts a strong influence in moulding public opinion, he expressed a warm personal interest in the special work of your committee, and said that he is very much in favor of the federal supervision of insurance.

Federal Supervision.

The President, in his message to Congress of December 6, 1904, expressed his opinion with regard to this vital topic in the following pregnant sentences:

"The business of insurance vitally affects the great mass of the people of the United States, and is national and not local in its application. It involves a multitude of transactions among the people of the different states, and between American companies and foreign governments. I urge that the Congress carefully consider whether the power of the Bureau of Corporations cannot constitutionally be extended to cover interstate transactions in insurance."

No insurance company in the United States transacting its business according to legitimate methods objects to the widest publicity with regard to its affairs. It is only those companies that seek to cheat the public by prostituting the sentiment of fraternalism and through extravagant prospectuses, and those companies that are doing what is known as an underground or wildcat business that object to publicity. This statement is not aimed at those beneficent fraternal organizations whose business is honestly conducted according to legitimate methods. Publicity as related to corporations that have or seek either public franchises or public favor means more than a newspaper advertisement of an unsworn statement of assets and liabilities. It means that each company must show to that department of government, state or federal, vested with power in that regard, what it is doing with the money it receives; that its affairs are conducted honestly and economically, and that its business is operated upon a plan which experience has shown will enable it to afford the protection it offers to its policy holders.

Necessity for Federal Supervision.

If Congress has the power to regulate the insurance business under the commerce and general welfare clauses of the Constitution, a preliminary inquiry arises whether such regulation is desirable. If the business, in either its origin or

development, is national in character, it should be regulated and controlled by the national government. No question of state rights is involved. The mere circumstance that many of the states annually exact from insurance companies money by way of taxation and otherwise, that they do not find it convenient to collect by ordinary means, and that they may be deprived of revenues to which they have no right, is no argument against national control and regulation of the business. The officials of the leading companies, life, fire and accident, recognize the steady growth of the sentiment in favor of national supervision, and they generally favor it if thereby the forty-nine state departments to which they now must make returns will be superseded. The leading state insurance commissioners are also in favor of federal supervision. Hon. W. H. Hart, Auditor of State of Indiana, presiding over the National Convention of Insurance Commissioners at their Thirty-second Annual Convention at Buffalo, said:

"In my judgment the time must speedily come, in the very nature of things, when it can be done consistently, that the insurance interests of this country shall pass from state to federal supervision."

In his address at Columbus, September 23, 1902, President Hart said:

"I believe the eclectic interest of insured and insurer demand federal supervision with incidental state authority. This would be the solution of uniformity in laws and practice and free the companies of a mountain of expense. It would place this largest utility of the republic on a skilled business basis free from the periodical upheavals of change in politics. An interest aggregating billions, the intimate relation borne to so many thousands of our countrymen, should not have any impediment to the best supervision that can be given."

Hon. Arthur I. Vorys, of Ohio, was president of the National Convention of State Insurance Commissioners at their 1903 session at Baltimore, and in his address, September 29, 1903, said:

"Speaking for myself, I venture the assertion that federal supervision is inevitable; that it will be established at no very distant day and under federal laws of then unquestioned constitutionality."

No one has offered any substantial reason against federal supervision, and it is advocated by the President of the United States, many state insurance commissioners, favored by leading insurance officials and numerous able insurance journals. Besides these, the general press is in favor of any movement in the direction of greater corporate publicity, and the patrons of insurance—the people—favor federal supervision of the business as the national banks are supervised.

There are three factors in the problem of insurance supervision: the public, which furnishes the money to conduct the business; the companies, which are the trustees of this money; the state, whose province it is to see that good faith is observed between the public and the companies. The end of supervision should be to see that companies are safe financially and honest in their dealings; but while there are in many states capable and efficient commissioners or superintendents who are engaged in the conscientious performance of their duties, the principal occupation of these officials in other states is to draw their salaries and accept the certificates issued by the standard insurance states, such as New York, Massachusetts and Connecticut, of the solvency, etc., of companies of those states.

The figures furnished by Senator Dryden in his recent address before the Boston Life Underwriters' Association (November 22, 1904) show the startling fact that the life insurance companies in the United States pay for state supervision several million dollars more than the supervision costs the states. According to tables compiled in the Bureau of Corporations, twenty-eight states in the year 1902 received from insurance companies, exclusive of taxes, over $5,000,000 more than they expended in the supervision of those companies. The iniquity of such a condition is obvious, for it lays an unnecessary burden upon all who seek to provide for their

families and to avert disaster from fire through insurance. It is estimated that the expense of federal supervision would not be over ten per cent. of what it now costs.

Federal supervision will also go far toward the solution of the vexed problem of taxation. All insurance is, in a broad sense, a tax, and a tax upon a tax is opposed to sound policy. Many states tax foreign companies at a higher rate than they do their own, thereby making the policy holder pay that much more for his insurance. Some states, apparently overlooking the fact that this nation is a *union* of states, have enacted laws under which that species of tax known as "retaliatory" is exacted; for instance: if Pennsylvania requires companies created under the laws of other states to pay taxes at a higher rate or on a different basis than Pennsylvania companies, Indiana follows suit and requires all Pennsylvania companies doing business in Indiana to pay taxes on the same basis and rate that Pennsylvania exacts of outside companies; and the circumstance that Indiana has no companies doing business in Pennsylvania is unimportant. These statutes are sheltered under the police power and have been sustained on the theory that the state may impose terms upon corporations of other states (State *vs.* Insurance Co., 115 Ind. 265, and cases cited), but they are in their spirit hostile to the federal compact and increase the cost of insurance in the retaliating state.

The centralization of supervision in the hands of qualified experts employed by the federal government would encourage a greater degree of publicity than is possible at the present time, when the annual report blanks represent the compromise ideas of nearly fifty different supervising officials. The required reports to the national government would doubtless be far more analytical and inquisitorial than those required in any of the states. A federal statute or regulation requiring an accounting of the uses made of the immense sums accumulated through the prudence, sacrifice and thrift of millions of policy holders will prevent improvident and improper investments and extravagant management. Assuming that federal super-

vision is constitutional, practicable and desirable, the plan by which it can best be accomplished must necessarily be left to the judgment of Congress. Various schemes have been suggested by students of the problem, but whether the best supervision can be had from a plan providing for federal franchises or national reincorporation is a matter upon which your committee do not express an opinion.

Is Insurance Interstate Commerce?

The apparent obstacle in the way to either a congressional or judicial declaration that interstate insurance is "commerce among the states" is found in a series of decisions of the supreme court beginning with the famous case of Paul *vs.* Virginia, 8 Wall. 168 [1868]. (See Liverpool Insurance Co. *vs.* Mass., 10 Wall. 566 [1870]; Hooper *vs.* California, 155 U. S. 648 [1894]; New York Life Ins. Co. *vs.* Cravens, 178 U. S. 389 [1899]; Nutting *vs.* Mass., 183 U. S. 553 [1901].)

In all these cases, except New York Life Ins. Co. *vs.* Cravens, the principal question involved was whether a corporation of one state may transact its business in another except by compliance with the terms prescribed by the latter, and the inquiry in them all was as to the validity of the several state statutes involved imposing the terms with which corporations of other states must comply before transacting their business in those states whose legislation was attacked; and the statutes were sustained as within the legitimate exercise of the police power. In the Cravens case the question was whether a statute of Missouri, providing for the non-forfeiture of a policy of life insurance under certain conditions, fixed the rights of the parties contrary to the provisions of the contract as written, and the supreme court upheld the state statute and read it into the contract. In none of these cases was there involved the validity of an Act of Congress. In none of these cases did the decision hinge upon the constitutional classification of the business of insurance. In none of these cases was there apparently in the record any accurate and

detailed statement of facts with regard to the character and conduct of the business and the uses made of insurance; but the decisions are based upon the misconception of the facts touching the conduct of the business as they are recited in Paul *vs.* Virginia, and upon the theory that the business of insurance involves only the making of a contract between a citizen of one state and a corporation of another.

As long ago as 1877 the supreme court refused to give the decision in Paul *vs.* Virginia the scope and effect claimed for it by Mr. Justice Field. In Pensacola Telegraph Co. *vs.* Western Union Telegraph Co., 96 U. S. 1, it is said:

"We are aware that in Paul *vs.* Virginia this court decided that a state might exclude a corporation of another state from its jurisdiction, and that corporations are not within the clause of the Constitution which declares that 'the citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.'

. . . . . .

"Upon principles of comity, corporations of one state are permitted to do business in another unless it conflicts with the law or unjustly interferes with the rights of the citizens of the state into which they come. Under such circumstances, no citizen of a state can enjoin a foreign corporation from pursuing its business."

The court held that the Western Union Telegraph Company, a New York corporation, had the right to erect and operate a telegraph line in the State of Florida, notwithstanding an act passed by the legislature of Florida incorporating the Pensacola Telegraph Company, which granted it "the sole and exclusive privilege and right to establish and maintain an electric telegraph" in certain parts of the territory within the State of Florida which the Western Union Telegraph Company wished to occupy.

Mr. Justice Field dissented, and quoting extensively from Paul *vs.* Virginia urged the importance of state control over corporations doing business within their limits. In this connection he said:

"By the decision now rendered, congressional legislation can take this control from the state, and even thrust within its borders corporations from other states in no way responsible to it."

The statement of Mr. Justice Field in Paul *vs.* Virginia that the policy does not take effect until delivered is not true in thousands of insurance transactions of this day. It is true insurance is not a subject of trade and barter, but neither is a telegram; it is not a commodity to be shipped or forwarded from one state to another and then put up for sale, but neither is a telephone message. When the Constitution was adopted there were no steamboats, no railroads, and the telegraph, the telephone and supplied electric power have become public utilities and recognized as instrumentalities of commerce within the lifetime of the youngest member of this Association. (Judson on Interstate Commerce, 12, 70.) But it does not follow that because a thing is new, it may not be covered by the Constitution, for Marshall characterized the Constitution as "intended to endure for ages to come and consequently to be adapted to the various crises of human affairs." (McCulloch *vs.* Maryland, 4 Wheat. 316, 415.)

Chief Justice Waite said of the powers granted to Congress by the commerce clause of the Constitution:

"The powers thus granted are not confined to the instrumentalities of commerce, or the postal service, known or in use when the Constitution was adopted, but they keep pace with the progress of the country and adapt themselves to the new developments of time and circumstances." (Pensacola Telegraph Co. *vs.* Western Union Telegraph Co., 96 U. S. 1.)

Mr. Justice Miller said that the power of regulation under the commerce clause has been applied "to a method of intercourse which had no existence when the Constitution was framed." (Lectures on the Constitution, p. 450.)

Mr. Justice Brewer more recently said:

"Constitutional provisions do not change, but their operation extends to new matters as the modes of business and the

habits of life of the people vary with each succeeding generation. The law of the common carrier is the same today as when transportation on land was by coach and wagon, and on water by canal boat and sailing vessel, yet in its actual operation it touches and regulates transportation by modes then unknown, the railroad train and steamship. Just so is it with the grant to the national government of power over interstate commerce. The Constitution has not changed. The power is the same. But it operates today upon modes of interstate commerce unknown to the fathers, and it will operate with equal force upon any new modes of such commerce which the future may develop." (*In re* Debs, 158 U. S. 591.)

That profound student of the American Constitution, Mr. Bryce, says in substance that our Constitution has developed in at least three ways: by amendment, interpretation and usage; that the development by usage has established rules not inconsistent with its expressed provisions, but giving them a character, effect and direction which they would not have had if they had stood alone. Again he says:

"The American Constitution has necessarily changed as the nation has changed; has changed in the spirit with which men regard it and therefore in its own spirit." (1 Bryce, American Commonwealth, 389.)

The question, then, whether Congress may regulate the business of interstate insurance depends not necessarily upon the conception which the framers of the Constitution had of the commerce which that instrument placed under federal control, nor does it depend upon mere definitions, but rather whether the thing itself bears to the business life of the nation that intimate and vital relation which other conceded instrumentalities of commerce bear to it. When the Constitution was adopted there were only one or two fire insurance companies in the United States, and they were mutual companies, one of which was founded by Benjamin Franklin. The oldest incorporated stock fire insurance company is the Insurance Company of North America of Philadelphia founded in 1792. There were about ten mutual and four stock companies and

partnerships in the United States transacting the business of fire insurance prior to 1800. (Richard M. Bissell's Historical Lecture on Fire Insurance in Yale Insurance Course, 1903.)

THE NATURE AND USES OF INSURANCE.

The development of the business of insurance has been concurrent and co-extensive with the development and expansion of all commerce, and now policies of insurance are issued to protect not only against the perils of the sea and loss by fire, but against the destruction of property by wind and hail; its loss by burglary; against negligence, boiler explosions, broken windows, bad debts, dishonest employees, accidental injury, sickness, death, etc. Disaster and ruin go hand in hand with each one of these risks, and but for the system of insurance which has been developed within the last hundred years, commerce as we know it, credit as it is, civilization as we live it, would not have been possible.

Fire insurance serves as a basis of credit. It is, in fact, collateral. None of the great manufacturing or commercial enterprises could be carried on in their present magnitude except for the confidence based upon insurance. The merchant desiring a line of credit from a manufacturer or wholesale dealer in a distant city is required to assure his creditor that the merchandise will be insured, not only while in transit, but after it has reached its destination. Insurance is a recognized asset, and the credit system of the country rests upon it as much as upon the financial responsibility of men and mercantile corporations. Bankers require their borrowers to carry fire insurance. Borrowers upon the security of buildings are required to agree in advance to keep the property insured for the benefit of the lender. All these various uses of fire insurance are enjoyed under a substantially uniform contract (many provisions of which are held to mean one thing in one state and another thing in another state), which agrees to indemnify the insured in the event of loss or damage by fire.

Every fire insurance contract written by a company outside the state of its creation involves interstate commercial intercourse. The policy is signed by the officials of the company at its home office; it is countersigned by the local agent who reports to the home office or the department manager all the details with regard to the risk, and frequently upon receipt of such report the insurance is ordered cancelled; the premium is remitted by the local agent to the home office or the department manager, and in case of loss an adjustment is made by the company's representative sent from the home office or its department headquarters.

Hon. Wm. P. Hepburn, chairman of the House Committee on Interstate and Foreign Commerce, at the hearing before that committee (p. 174) upon the bill which established the Department of Commerce and Labor, said:

"The power to insure a cargo or a vessel lessens the hazards of trade, and it has become so much the custom to rely upon that that it would undoubtedly be a wonderful impairment to the possibilities of commerce if the inability of men to insure should become a fixed fact; men would not undertake ventures that they now do if that were so."

In the debate on the same bill in Congress, January 17, 1903, Mr. Hepburn said:

"The insurance business of the United States is colossal. The wealth of insurance companies is greater than all of the values of all property in the United States at the time this government was formed. The business of the insurance companies is greater in volume per dollars and cents than all of the combined business of all regions of this country at the end of the revolutionary war. It is colossal. There are three corporations doing business in one single city in the United States whose assets aggregate more than $1,000,000,000. Now, it has come to pass that all commercial business is in a large measure dependent upon insurance. As I said the other day, if you were to obliterate the insurance of the United States you would well nigh obliterate the commerce of the United States. The business of commerce could not be under-

taken were it not for the protection and influence of insurance." (Department of Commerce and Labor: Organization and Law, p. 589.)

"It has only been within the past forty years that the public recognition of the value of life insurance has been such as to raise this business to a position in which it not only plays an important part in social problems, but also affects the financial life of the nation." (Observations on Insurance History, by John M. Holcombe, Yale Insurance Course, 1903.)

Life insurance policies, unlike the contracts of fire companies, have taken as many diverse forms as the ingenuity of man can devise, and life policies aggregating billions of dollars are now in force which serve not only as protection to the families of the insured, but which may be used as collateral in the hands of the insured upon which loans may be effected either from the insurance companies or from banks. They have an absolute cash value, and the transmission of such contracts is just as much commerce as the transmission of bills of lading, lottery tickets or other paper evidences of the existence of property. In Almy *vs.* California, 24 How. 169, a stamp duty on a bill of lading was held unconstitutional, and in Woodruff *vs.* Parham, 8 Wall. 123, that decision was placed upon the ground that the tax was void as a regulation of commerce. In the Lottery Cases (Champion *vs.* Ames, 188 U. S. 321), the carriage of lottery tickets from one state to another by an express company engaged in carrying packages from state to state is held interstate commerce.

Some policies are, in fact, promises to pay a certain amount of money at a fixed time, conditioned only upon the payment of the stipulated premium. The time of payment may be shortened by the death of the insured. In addition to this they possess cash surrender values. Life insurance companies issuing policies of endowment insurance are in effect savings banks.

Employers' liability and casualty insurance has developed into a necessary adjunct of all commercial and manufacturing

enterprises. The undertaking is to indemnify the insured against claims for damages from common law and statutory liability in the various places where the business of the insured is conducted. Policies of this character are not infrequently written at Boston, New York and Baltimore to cover locations in half a dozen or more states. Every such transaction is in its essence commercial intercourse among the people of the several states.

Insurance in its various forms is then as vital to the commercial life of the country as either transportation, the telegraph, the telephone or electricity in any of its uses. "What is an article of commerce is determinable by the usages of the commercial world." (Per Justice Field in Bowman *vs.* Railway Co., 125 U. S. 465, 501.) The issuance of policies in exchange for premiums does not, however, constitute the business of an insurance company any more than the wrapping paper on a parcel of merchandise constitutes the business of the merchant who sells the goods. But what is contemplated by the contract, regardless of how or where it is executed, is the substance of the insurance transaction, just as the sale and purchase of the contents of the parcel is in the other transaction. In other words, the insurance is wrapped in the policy. Or, to state it still another way, the policy is merely the evidence of the contract.

Insurance was originally commerce, and the first legislation upon the subject recognized it as such:

"Whereas, it ever hath been the policy of this realm by all good means to comfort and encourage the merchant, thereby to advance and increase the general wealth of the realm, Her Majesty's customs, and the strength of shipping." (Stat. 43 Eliz. C. 12 [1601].)

The original theory of protecting capital subject to the risks of maritime commerce was that it was a proper encouragement of trade to provide that merchants in case of adverse fortune could save not only their original investment, but their anticipated profits, and that men of small fortunes should be encour-

aged to engage in commerce by giving them the means of preserving their capital entire. (Barclay *vs.* Cousins, 2 East 544, King's Bench, 1802.) By the statute of Elizabeth, a court of commissioners largely composed of "grave and discreet merchants" was created to take away from the law courts the disposition of causes arising upon contracts of insurance. And this continued to be the law.

"In what cases and how far insurers should be liable is covered chiefly by the customs of merchants, and some at least of that profession are usually empaneled on the jury to try these suits." (Wooddesson, Lectures on the Law of England, vol. iii, p. 53, *et seq.*)

The law merchant was originally a branch of international law. This system of law "has been admitted to decide controversies concerning bills of exchange, policies of insurance and *other mercantile transactions*, both where citizens of different states and citizens of the same state only have been interested in the event." (1 James Wilson's Works, 335.)

Alexander Hamilton, in his famous opinion upon the constitutionality of the proposed United States bank, objected to the enumeration by the Attorney-General of the particulars which he, the Attorney-General, supposed to be comprehended "under the several heads of the powers to lay and collect taxes, etc.; to borrow money on the credit of the United States; to regulate commerce with sovereign nations between the states," etc.; and among other items which, according to Hamilton, were omitted from the enumeration by the Attorney-General of the heads of the power to regulate commerce with foreign nations are:

"3. The regulation of policies of insurance. . . .
4. The regulation of pilots.
5. The regulation of bills of exchange drawn by a merchant of one state upon a merchant of another state.

This last rather belongs to the regulation of trade between the states, but is equally omitted in the specification under that head." (3 Hamilton's Works, Lodge's ed., p. 203.)

Hamilton also, in that same opinion (*ibid.* 222), said:

"In all questions of this nature the practice of mankind ought to have great weight against the theories of individuals. The fact, for instance, that all the principal commercial nations have made use of trading corporations or companies for the purpose of external commerce is a satisfactory proof that the establishment of them is an incident to the regulation of the commerce."

This was said with reference to the creation of a United States bank, but the observation applies with great force to the business of insurance.

In view of the fact that in England insurance is regulated by the Board of Trade; in France, by the Minister of Commerce; in Norway, by the Commercial Registrar; in Austria, by the Tribunal of Commerce; and in the German Empire by the central government, it is fair to affirm that insurance is commerce and has from the beginning been treated as such except in the cases in which the question has been incidentally discussed by the Supreme Court of the United States. It is, however, significant that the majority opinion in the Lottery Cases makes no reference whatever to the line of cases known as the Insurance Cases; and the reasonable deduction from this is that their authority has been weakened.

It seems to have been overlooked that insurance has been adjudged trade with the enemy. (New York Life Ins. Co. *vs.* Statham, 93 U. S. 24; New York Life Ins. Co. *vs.* Davis, 95 U. S. 425.) In the Davis case Mr. Justice Bradley said:

"That war suspends all commercial intercourse between the citizens of two belligerent countries or states, except so far as may be allowed by the sovereign authority, has been so often asserted and explained in this court within the last fifteen years that any further discussion of that proposition will be out of place. As a consequence of this fundamental proposition, it must follow that no active business can be maintained either personally or by correspondence, or through an agent by the citizens of one belligerent with the citizens of the other."

Twice in the few lines quoted, is life insurance characterized as commerce; once as "commercial intercourse" and once as "active business."

The Supreme Court of Iowa in Beechley *vs.* Mulville, 102 Ia. 602, 70 N. W. 107, in a suit for damages based upon a conspiracy to destroy the plaintiff's business as an insurance agent, said:

"Insurance is a commodity. 'Commodity' is defined to be that which affords advantage or profit. Mr. Anderson, in his law dictionary, defines the word as 'convenience, privilege, profit, gain; popularly, goods, wares, merchandise.' . . . It is common to speak of 'selling insurance.' It is a term used in insurance business, and law writers have, to quite an extent, adopted it."

For convenient reference, a number of the judicial definitions of commerce are collected in an appendix to this report.

The commerce clause gives to Congress the power "to regulate commerce with foreign nations and among the several states and with the Indian tribes." The term "interstate," as applied to the commerce among the states, is an arbitrary expression which has come into general use to describe such commerce. It is hardly as comprehensive a term as the word used in the Constitution. Interstate commerce in the United States is defined to be "commercial transactions and intercourse between persons resident in different states of the union or carried on by lines of transport extending into more than one state." (Century Dictionary: *Commerce.*)

Chief Justice Marshall thus defined the phrase:

"The subject to which the power is next applied is to commerce 'among the several states'; the word 'among' means intermingled with; a thing which is among others is intermingled with them; commerce among the states cannot stop at the external boundary line of each state, but may be introduced into the interior." (Gibbons *vs.* Ogden, 9 Wheat. 1.)

Commerce, therefore, is of two kinds. First, the commerce among the states; second, that commerce which is exclusively

and completely internal and "is carried on between man and man in a state or between different parts of the same state." The word "among" is restricted to that commerce which concerns more states than one. The completely internal commerce of a state is excluded from federal control, but all other commerce is subject to federal control. (Gibbons *vs.* Ogden, *supra.*)

"The states have as much control over their purely internal commerce as Congress has over commerce among the several states and with foreign nations." (County of Mobile *vs.* Kimball, 102 U. S. 691.)

"The rule that the regulation of commerce which is confined exclusively within the jurisdiction and territory of a state, and does not affect other nations or states or the Indian tribes, that is to say, the purely internal commerce of a state, belongs exclusively to the state, is as well settled as that the regulation of commerce which does affect other nations or states or the Indian tribes, belongs to Congress." (Western Union Telegraph Co. *vs.* Texas, 105 U. S. 460.)

It is the fact of diverse citizenship that brings the parties dealing with each other within the exclusive jurisdiction of the federal government. That diversity once established, the state lines vanish, and the commercial intercourse is among citizens, not of the states, but of the United States, and the regulation is conducted without regard to state lines.

"The nations, states and tribes designated in this clause of the Constitution do not mean those bodies in the aggregate. For example: the state of Tennessee has no commerce with the state of Kentucky lying adjacent to it; the United States, as a body, has no commerce with England. It simply means commerce, traffic and intercourse between the citizens or subjects of those nations, states or tribes." (Miller's Lectures on Constitutional Law, 467.)

It, therefore, appears that the Constitution is sufficiently expansive to cover even instrumentalities of commerce that were not in existence or dreamed of at the time of its adoption: but the contemporary practical construction of Hamilton

and Wilson defines insurance to be commerce. The various uses made of the different kinds of insurance written and the methods by which the business is done, conclusively establish it to be an instrumentality of commerce and the business itself commerce.

Congress has declared insurance to be commerce. In section 6 of the Act of Congress entitled, "An Act to establish the Department of Commerce and Labor," the Bureau of Corporations is charged with a "diligent investigation into the organization, conduct and management of the business of any corporation, joint stock company or corporate combination engaged in commerce with the several states and with foreign nations, excepting common carriers"; and it is the duty of that bureau "to gather, compile, publish and supply useful information concerning corporations doing business within the limits of the United States as shall engage in interstate commerce or in commerce between the United States and any foreign country, *including corporations engaged in insurance*," etc. Congress is the exclusive judge of the expediency of such regulation and of the facts which render such regulation expedient. (See McCulloch *vs.* Maryland, *supra.*) And Congress has the exclusive power "to determine the articles which may be the subjects of commerce." (Per Mr. Justice Catron in License Cases, 5 How. 504, quoted by Justices Matthews and Field in Bowman *vs.* Railway Co., *supra.*)

"We cannot hold that any articles which Congress recognizes as subjects of interstate commerce are not such." (Per Chief Justice Fuller in Leisy *vs.* Hardin, 135 U. S. 100, 125.)

Mr. Justice Miller in United States *vs.* Steffens, 100 U. S. 182, states that Acts of Congress held unconstitutional for want of constitutional power may be counted by anyone upon his fingers.

The apparent conflict in the decisions of the Supreme Court with respect to the commerce clause of the Constitution has arisen chiefly because of the divergent views entertained by the various members of the court with respect to the opposing

doctrines of concurrent and exclusive power. But when Congress has spoken, even withdrawing from federal regulation any of the conceded subjects of commerce, as, for instance, intoxicating liquors (*in re* Rahrer, 140 U. S. 545), its will has been made effective by the Supreme Court.

In the interest of that publicity which will insure the maximum of protection to the public and to lessen the cost of insurance, Congress should supplement its directions to the Bureau of Corporations by providing for the complete supervision of the business; for it is only by legislation that this power of the general government can be determined.

The Valued Policy Laws.

In nineteen or twenty of the states are statutes known as valued policy laws which require fire insurance companies to pay to the insured in the event of the total destruction of real or personal property insured, the full amount named in the policy, regardless of the value of the property at the time of the loss. Such laws, according to the experience of insurance companies and others qualified to speak upon the subject, invite fraud, perjury and arson. The man who insures his property for more than it is worth and then sets it on fire, is protected by law in his dishonesty and crime to the extent of his overinsurance. Such laws have increased both the cost of insurance and the fire waste. They place before every evil-disposed person the temptation to overinsure and then to burn his property for the gain there is in it, and even an honest insured is likely to be very much more careless than when he is obliged to carry some portion of the risk himself. No man ought to be permitted to recover on a fire insurance policy more than the value of the property that is destroyed.

Governor Shaw of Iowa in 1900, Governor Pattison of Pennsylvania in 1893, Governor Altgeld of Illinois in 1893, Governor Thomas of Colorado in 1899, Governor Wells of Utah in 1899 and Governor Sadler of Nevada in 1899 vetoed bills of this character, and the Insurance Commissioners of

Ohio, Wisconsin, Missouri, Michigan and other states have condemned these statutes in the severest terms. Governor Shaw made an investigation of the operation of such statutes in other states and collected the record of over eight hundred policies in the southern tier of counties of Iowa and the northern tier of counties of Missouri, from which he found that the rate of insurance was materially increased, and in many instances doubled, and in some cases more than doubled. In his veto message he said:

"There is no escaping the proposition that the insured must pay all losses and any law that has the effect to increase the hazard must necessarily increase the rate. . . . True insurance is indemnity. Nothing in excess of actual loss should ever be collectible. In order to reduce the loss to the minimum there must be some inducement for the owner of the property to throw water *rather than oil upon incipient fires.*"

A Uniform Fire Policy.

In the states of New York, Connecticut, Louisiana, Michigan, Missouri, New Jersey, North Carolina, North Dakota, Rhode Island, South Dakota, Wisconsin, Maine, Massachusetts, Minnesota and New Hampshire all policies of fire insurance are written upon a form known as the New York standard fire insurance policy, or a form substantially like it. This form contains between two hundred and fifty and three hundred points (see index to New York standard fire insurance policy by F. O. Affeld, Jr.). These provisions of the fire insurance policy have given rise in the several states to much litigation and to a great diversity of judicial opinion. For instance, in one state the appraisal clause of the policy is avoided; in the others it is upheld. In twenty of the fifty states and territories the amount of recovery is determined not by the amount of loss, but by the amount of insurance named in the policy. In some states notice to the company's agent in a mode expressly prohibited by the policy is binding upon the company; in other states the terms of the policy control. Upon

many questions the federal rule differs from that of the state courts, and the anomalous situation is often presented that upon precisely the same facts the judgment of the federal court will be exactly opposite to the judgment of the state court in the same federal district. A form of policy expressed in simple terms, which shall mean the same in California as in New York and in Texas as in Minnesota, and covering all necessary requirements, could be made simpler, better and much shorter than the one now in use, and would very greatly simplify the business of fire insurance and be to the mutual advantage of the public and the companies. If federal supervision is not accomplished, then some such plan should be adopted to secure uniformity in the terms of fire insurance policies and their established meaning throughout the states as the Association has adopted with reference to negotiable instruments.

The Revocation of Licenses.

In many of the states authority is conferred on a single individual, either the insurance commissioner or the auditor of state, to revoke arbitrarily the licenses of companies transacting their business outside of the states of their creation, whenever in the judgment of such official, any company is violating any state law, or its solvency is impaired. There is no objection to the revocation of licenses for any substantial cause. The objection is to the lodgment of so much power in one individual, and all such statutes should be modified so as to give any company threatened with the revocation of its license an opportunity to be heard and the right to appeal to the courts, if necessary, before its license is revoked, upon giving adequate security for the protection of its policy holders, pending the appeal, to be fixed and approved by the court to which the appeal is taken.

Statutes Prohibiting the Removal of Causes.

In a number of the states there are statutes requiring all insurance companies of other states to agree not to remove any

suits against them to the federal court under penalty of a forfeiture of their licenses. A measure of that kind is based either upon malice against insurance companies or want of confidence in the federal judiciary. The first reason is necessarily a bad one, and the second reason shows an unfortunate condition of affairs. Whether the fault be in the federal judiciary or in those who have no confidence in it, in either event the result is an effort to make conflict between the state and federal courts and between the state and federal governments. Such statutes attempt to accomplish by indirection what cannot be done directly, for the right to litigate in the federal court under the conditions prescribed by the Constitution of the United States and the Acts of Congress pursuant thereto, cannot be waived. The theory of such legislation by the states is that it is competent for them to prescribe terms upon which foreign corporations may transact their business therein; but this theory has limitations, and though a Wisconsin statute of this character was once upheld, the United States Supreme Court has often since condemned such laws in unmeasured terms.

Mr. Justice Bradley (Justices Miller and Swayne concurring), in his indignant dissenting opinion in Doyle *vs.* Continental Insurance Co., 94 U. S. 535, said that such a law as the Wisconsin statute "is mischievous and productive of hostility and disloyalty to the federal government."

In Barrow Steamship Co. *vs.* Kane, 170 U. S. 100, the court say:

"Statutes requiring foreign corporations, as a condition of being permitted to do business within the state, to stipulate not to remove into the courts of the United States suits brought against them in the courts of the state, have been adjudged to be unconstitutional and void."

Statutes Encouraging Suicide.

In a few states, notably Missouri and Colorado, statutes have been enacted which deny to life insurance companies the

right to defend against death claims when the insured has committed suicide. Death, the risk of life insurance, the event upon which the insurance money is payable, is certain to occur. The material element and consideration of the contract of life insurance is the uncertainty of the time of its occurrence, and it cannot be within the contemplation of the parties that the assured, by his own criminal act, shall deprive the contract of its material element, hasten the day of payment and thereby enlarge the risk. (Ritter *vs.* Mutual Life Ins. Co., 169 U. S. 139; Supreme Commander *vs.* Ainsworth, 71 Ala. 436.)

The policies of nearly all companies are incontestible for suicide or other causes after a certain period, but these statutes which permit the companies to avail themselves of the defense under their suicide clauses only where it is proved that the insured contemplated suicide when he applied for his policy are, in the opinion of many thoughtful men and students of social science, an encouragement to suicide and are not to be tolerated. The number of suicides in the United States is estimated at ten thousand annually. Suicide is itself a disease of civilization. Many of the motives for self-destruction are found in the conditions of modern life and laws with relation to that subject ought to be preventive in character rather than an inducement to self-destruction for any reason.

Underground and Wildcat Insurance.

The laws of many of the states provide for the incorporation of insurance companies upon both stock and mutual plans without the requirement of a cash deposit, or its equivalent, with the state for the protection of the policy holders; the theory of the incorporation laws being that the obligations of the subscribers for stock serves that purpose. This, in practice, oftentimes proves a delusion and a snare, and such companies escape the supervision even of the insurance departments of the states under whose laws they are created, by refusing to transact any business in such states and by doing

business only in other states where they do not seek to be licensed, but where they can write insurance without offending against the criminal statutes. The problems connected with this species of knavery have created much discussion in insurance circles, and efforts to check it have from time to time been put forth, not only by the officials of companies engaged in legitimate business, but by the National Conventions of State Insurance Commissioners. The latter body memorialized Congress upon the subject, and asked the Postmaster-General to issue a fraud order against certain companies whose business was known to be illegitimate and who were making use of the mails to further their fraudulent schemes. A bill to prevent the use of the mails by such companies was recently before Congress, but failed of enactment because of objections to it by some concerns transacting a legitimate business and by counsel for some institutions of doubtful legitimacy. The only question which can arise with respect to such legislation is that it shall apply only to those companies or individuals intended to be affected.

Your committee therefore recommend:

1. Legislation by Congress providing for the supervision of insurance.

2. The repeal of all valued policy laws.

3. A uniform fire policy, the terms of which shall be specifically defined.

4. The repeal of all retaliatory tax laws.

5. Stricter incorporation laws in the several states as they affect the creation of insurance companies; and a federal statute prohibiting the use of the mails to all persons, associations or corporations transacting the business of insurance in disregard of state or federal regulations.

RALPH W. BRECKENRIDGE,
BURTON SMITH,
ALFRED HEMENWAY,
RODNEY A. MERCUR.

APPENDIX.

JUDICIAL DEFINITIONS OF COMMERCE.

"Commerce undoubtedly is traffic, but it is something more; it is intercourse. It describes the commercial intercourse between nations, and parts of nations, *in all its branches*, and is regulated by prescribing rules for carrying on that intercourse." (Per Chief Justice Marshall in Gibbons *vs.* Ogden, 9 Wheat. 1.)

"Commerce, in its simplest signification, means an exchange of goods; but in the advancement of society, labor, transportation, intelligence, care and various mediums of exchange become commodities and enter into commerce; the *subject*, the *vehicle*, the *agent* and *their various operations* become the objects of commercial regulation." (Per Mr. Justice Johnson in Gibbons *vs.* Ogden, *supra.*)

"Commerce is defined to be 'an exchange of commodities.' But this definition does not convey the full meaning of the term; 'it includes navigation and intercourse.'" (Per Mr. Justice McLean in Passenger Cases, 7 How. 284, 401.)

"These words comprehend every species of commercial intercourse between the United States and foreign nations." (Per Mr. Justice Wayne in Passenger Cases.)

"Commerce, as defined by this court, means something more than traffic; it is intercourse." (Per Mr. Justice Grier in Passenger Cases.)

"Commerce is personal intercourse." (Per Mr. Justice Catron in Passenger Cases.)

"The power to regulate commerce embraces a vast field, containing not only many, but exceedingly various subjects quite unlike in their nature." (Per Mr. Justice Curtis in Cooley *vs.* The Board of Wardens of Philadelphia, 12 How. 299.)

"*Commerce is a term of the largest import.* It comprehends intercourse for the purposes of trade in any and all its forms, including the transportation, purchase, sale and exchange of commodities between the citizens or subjects of other countries and between the citizens of different states. *The power to regulate it embraces all the instruments* by which such com-

merce may be conducted." (Per Mr. Justice Field in Welton *vs.* Missouri, 91 U. S. 275.)

"Commerce . . . means trade, and it means intercourse. It means commercial intercourse between nations and parts of nations in all its branches." (Per Mr. Justice Miller in Henderson *vs.* Wickham, 92 U. S. 259.)

"Since the case of Gibbons *vs.* Ogden, 9 Wheat. 1, it has never been doubted that commercial intercourse is an element of commerce which comes within the regulating power of Congress." (Per Chief Justice Waite in Pensacola Telegraph Co. *vs.* Western Union Telegraph Co., 96 U. S. 1.)

"Commerce with foreign countries and among the states, strictly considered, consists in intercourse and traffic, including in these terms navigation and the transportation and transit of persons and property, as well as the purchase, sale and exchange of commodities." (Per Mr. Justice Field in County of Mobile *vs.* Kimball, 102 U. S. 691.)

In Gloucester Ferry Co. *vs.* Pennsylvania, 114 U. S. 196, a wharf was held to be the subject of regulation by the commerce clause of the Constitution.

"Although intercourse by telegraphic messages between the states is thus held to be interstate commerce, it differs in material particulars from that portion of commerce with foreign countries and between the states, which consists in the carriage of persons and the transportation and exchange of commodities, upon which we have been so often called to pass. It differs not only in the subjects which it transmits, but in the means of transmission. Other commerce deals only with persons, or with visible and tangible things. But the telegraph transports nothing visible and tangible; it carries only ideas, wishes, orders and intelligence. Other commerce requires the constant attention and supervision of the carrier for the safety of the persons and property carried. The message of the telegraph passes at once beyond the control of the sender, and reaches the office to which it is sent instantaneously." (Per Mr. Justice Field in Western Union Telegraph Co. *vs.* Pendleton, 122 U. S. 347.)

In Covington Bridge Co. *vs.* Kentucky, 154 U. S. 204, it was held (per Mr. Justice Brown) that the travel of foot passengers over a bridge from one side of the Ohio river to the

other is commerce. "'Commerce' was defined in Gibbons *vs.* Ogden to be 'intercourse,' and the thousands of people who daily pass and repass over this bridge may be as truly said to be engaged in commerce as if they were shipping cargoes of merchandise from New York to Liverpool."

"Commerce among the states embraces navigation, intercourse, communication, traffic, the transit of persons and the transmission of messages by telegraph." (Per Mr. Justice Harlan in the Lottery Cases, 188 U. S. 321.)

"The word 'commerce' . . . has, however, a broader meaning than the word 'trade.' Commerce among the states consists of intercourse and traffic between their citizens, and *includes* the transportation of persons and property and the navigation of public waters for that purpose, as well as the purchase, sale and exchange of commodities." (United States *vs.* Coal Dealers' Association, 85 Fed. 252, 265.)

"Domestic commerce and interstate commerce are different things. Still both are comprehended in the single word 'commerce.'" (State *vs.* Schlitz Brewing Co., 104 Tenn. 715, 59 S. W. 1033.)

"The word 'commerce,' as used in the United States Constitution, . . . includes commerce in all its ramifications and every feature or form which it may assume." (*Ex parte* Crandall, 1 Nev. 294, 302.)

MINORITY REPORT.

To the American Bar Association:

I feel myself compelled to dissent from the conclusions reached by my associates of the committee on the single proposition that "there is no constitutional obstacle in the way of federal regulation" of the business of insurance. Waiving the question whether it is proper for the American Bar Association, the majority of whose members practice before the Bar of the Supreme Court of the United States, to pass upon a pure question of law which must ultimately come for decision before that court, I do not see that any reason has been shown

why the business of insurance should be regarded as interstate commerce. If it is not interstate commerce, it is clear that the regulation and control of the business is beyond the powers of the federal government. I am of opinion that the existing methods of regulating insurance business by the several states is most defective, since it is both inefficient in preventing wildcat companies from engaging in the business and also needlessly expensive to those who in the last analysis bear the expenses incident to the business, the policy holders. I am also of opinion that federal supervision, if it were possible under our Constitution, would probably remedy many of the evils existing under the present system of regulation, but I do not see that such supervision by the federal government is possible without a constitutional amendment expressly giving it the required power. The term "commerce," as used in the Federal Constitution, is not defined by that instrument. In the nature of things there can be but one source from which an authoritative definition of the term can be derived, and that is the Supreme Court of the United States. It is intimated in the report of the committee that Congress itself has authority to define commerce and to designate what shall be regarded as instruments of commerce. Such authority in Congress, however, would give it the means of indefinitely extending its power, and it is well settled that Congress cannot, by its own act, extend its powers beyond the limits written in the Constitution. See Marbury *vs.* Madison, 1 Cranch. 176. Neither can a new definition of the term "commerce" be derived from any supposed requirement of public policy. To quote Chief Justice Fuller: "It will not do to say—a suggestion which has heretofore been made in this case—that state laws have been found to be ineffective for the suppression of lotteries, and therefore Congress should interfere. The scope of the commerce clause of the Constitution cannot be enlarged because of present views of public interest." (The Lottery Case, 188 U. S. 321, 372.)

It, therefore, remains merely to determine whether the Supreme Court has included the business of insurance within its definition of the term "commerce" as used in the Federal Constitution. That it has not done so, but has expressly excluded it during a period of nearly forty years within which the question has insistently been pressed upon the court, seems unquestionable. It cannot be said that the constitutional classification of insurance was not in judgment in these cases. In any one of the long line of insurance cases, the most important of which are cited in the report of the committee, the decision would have been different if the court had been of the opinion that insurance involved interstate commerce. This appears conclusively upon drawing a parallel between Hooper *vs.* California, 155 U. S. 648, and Crutcher *vs.* Kentucky, 141 U. S. 47. In each of these cases an agent had been fined under a state statute prohibiting any person from carrying on within the state any business on behalf of a foreign corporation that had not secured a license to do business within the state in accordance with the requirements of the statute. In the Hooper case the statute in question specified foreign corporations engaged in insurance while that in the Crutcher case was aimed at foreign express corporations. In each case the plaintiff in error, acting as agent for the unlicensed foreign corporation, was fined for violation of the statute, and in each case the conviction in the lower court was affirmed in the court of last resort in the state on the ground that the commerce clause of the Constitution of the United States was not involved. In each case the principal question argued on appeal to the Supreme Court of the United States was whether the statute, under which the conviction was had, interfered with interstate commerce. In the Hooper case the Supreme Court affirmed the decision of the Court of Appeals of California on the distinct ground that the insurance business, although carried on by a Massachusetts corporation in the State of California, did not involve interstate commerce, and the state statute was consequently perfectly valid. In the Crutcher

case, on the other hand, the decision of the Court of Appeals of Kentucky was reversed on the sole ground that express companies were engaged in interstate commerce which was burdened by the provisions of the Kentucky statute.

Neither can it properly be said that the conclusion of the Supreme Court that mutual life insurance was not commerce between the states was unnecessary to the judgment in Cravens *vs.* The Insurance Company, 178 U. S. 402. This becomes apparent if that case is read in the light of Almy *vs.* California, 24 Howard 169, in which latter case it was held that a state tax on bills of lading, issued upon shipments passing out of the state, was an illegal interference with interstate commerce on the very reasonable ground that a bill of lading is an instrument of commerce taking the place of the goods themselves. In the Cravens case an insurance contract made in New York, insuring the life of a resident of Missouri, was held by the court to be properly subject to statutory provisions imposed upon such contracts by the State of Missouri. It is very clear that a bill of lading, executed and issued in New York for a shipment of goods to Missouri, could not be legally subjected to the provisions of any Missouri statute; hence, if the court had held in the Cravens case that the insurance transaction involved in that case was one of interstate commerce, the decision of the court must necessarily have been just the reverse of that actually rendered.

Neither can it be said that the question thus shown to have been frequently put in judgment before the court has not been fully and ably presented. The original case of Paul *vs.* Virginia, 8 Wall. 168, was argued on behalf of the plaintiff in error by ex-Justice Benjamin R. Curtis, and the numerous subsequent cases have been argued by attorneys scarcely less distinguished.

It is further to be noted that there appears on the face of the reports of the Supreme Court not the least indication that any member of the court is or has ever been dissatisfied with the ruling in Paul *vs.* Virginia and the cases following it. It

is true that in the Lottery Case (188 U. S. 321) the opinion of the majority of the court makes no reference to the insurance cases, but it is also true that four of the members of the court dissented from the conclusion that the carrying of lottery tickets by express involved interstate commerce largely on the ground of an analogy thought to exist between the insurance cases and the case at bar. That there is only a remote analogy between sending lottery tickets by express and making insurance contracts which are, in the form of policies, occasionally sent by mail from the general office in one state to the insured in another is clear, and certainly we may conclude that if four members of the court were unwilling to consider sending lottery tickets by express as interstate commerce there is no reasonable ground for hope that a majority of the court would be willing to consider the transactions that ordinarily take place in the conduct of insurance as interstate commerce.

The proper conclusion seems to be that, however much we may desire to believe that insurance is interstate commerce and therefore susceptible of federal supervision, the matter is concluded by the carefully considered judgment of the Supreme Court of the United States against which, despite frequent assaults by its ablest opponents during a period of nearly forty years, not a single dissenting voice has been raised from the bench. Any Act of Congress, with a view to such supervision, would necessarily be unconstitutional and void, and the time and money that would be required to secure its passage could much more profitably be expended in endeavoring to secure some uniform action on the part of the states based upon a more intelligent understanding of the business and of the real interests of the insuring public.

W. R. VANCE.

REPORT

OF THE

COMMITTEE ON INDIAN LEGISLATION.

To the American Bar Association:

Your Committee on Indian Legislation respectfully state that their views of the matter submitted to them are fully expressed in their report of last year, and they see no occasion to repeat what is said there.

The present Commissioner of Indian Affairs has taken us to task, and says that he makes the Indians work for all they get. This is pleasing information, and we trust that his successor will follow in his footsteps. We, however, are dealing not with administrative orders, which depend on the caprice of the officers in power, but with the laws; and we believe that the laws providing for the preservation of tribal organization should be abrogated as rapidly as possible, and the Indians merged into the body of the citizens, where, like the most of us, they must work.

General R. H. Pratt, who has devoted his life to the improvement of the Indian, takes the position that the only salvation for him is to get him away from his tribe, and that his lands, even when alloted in severalty, are a curse, enabling him to live in idleness and vice by leasing them to white men.

This is probably true. Doubtless most Indians, like a great many white people, would be better off if they had no property. Still, we do not feel justified in saying that their land should be taken away for this reason. They have property rights, and these must be respected.

G. B. Rose,
Chairman,
Charles N. Potter,
Everett E. Ellinwood.

REPORT

OF THE

COMMITTEE ON TITLE TO REAL ESTATE.

To the American Bar Association:

The Special Committee on Title to Real Estate begs leave to submit the following report:

This committee is charged with the duty of securing legislation to prevent the hardships to innocent purchasers and encumbrancers of real estate arising under section 3186 of the Revised Statutes of the United States. That section reads as follows:

"If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount shall be a lien in favor of the United States from the time when the assessment list was received by the collector, except when otherwise provided, until paid, with the interest, penalties and costs that may accrue in addition thereto, upon all property and rights to property belonging to such person."

And it will be recalled that in the case of the United States *vs.* Snyder, 149 U. S. 210, the Supreme Court held that the lien thus created is valid even as against a *bona fide* purchaser or encumbrancer in good faith, though he have no knowledge and no means of knowing of the delinquency on the part of the person from or through whom he acquires his title or lien. No provision for filing or recording any notice apprising intending purchasers or encumbrancers of the claims of the government is made in the statute, and so the lien is undiscoverable. The lien is of such a comprehensive character that it covers all the property and rights to property of the delinquent situated anywhere in the United States, and so in the case of every title taken in the United States the impossible task is presented of ascertaining whether anyone in the chain ever was a delinquent in the payment of the taxes above referred

to while holding the property searched against. The indebtedness may have arisen years ago, and the business carried on under the internal revenue law may have been conducted thousands of miles away from the property affected by this omnibus and secret lien.

As previously reported, this committee, in compliance with the direction of the Association, prepared a memorial and the same was presented to each house of Congress.

Your committee also reported that such memorial received the approval of the committee (on the amendment of the law) of the Association of the Bar of the City of New York, of the Lawyers' Title Insurance Company of New York and of the President of the Real Estate Title Insurance Company of Philadelphia.

At the same time your committee reported that it was of the opinion that it would be of service in securing the end in view to authorize the committee to confer with officers of the government and formulate and advocate legislation in the premises, and thereupon the Association so authorized your committee.

As heretofore reported, your committee has secured an opinion from the Secretary of the Treasury that he is in heartiest accord with the position taken by this Association.

Your committee is pleased to report that it has received such promises of aid from members of Congress that the committee hopes to secure appropriate action by Congress at its next session to prevent the hardships above referred to.

Respectfully submitted,

FERDINAND SHACK,
Chairman.

JOHN FLETCHER.

Dated August 24, 1905.

REPORT

OF THE

COMMITTEE ON LOUISIANA PURCHASE EXPOSITION.

To the American Bar Association:

Your Committee on the Louisiana Purchase Exposition respectfully presents this, its final report:

The only duty devolving upon the committee since the last meeting of the Association was to assist the Executive Committee having the immediate charge of all the arrangements for the Universal Congress of Lawyers and Jurists, held in St. Louis, September 28, 29 and 30, 1904, under the joint auspices of the Louisiana Purchase Exposition Company and of this Association, in preparing the report of the proceedings of the Congress and to put the same through the press in suitable book form. This duty has been performed, and a copy of the report has been forwarded to each member of this Association.

The work was done at the Lakeside Press, Chicago, under the supervision of Mr. V. Mott Porter, the Secretary of the Executive Committee and of the Congress. We feel that the work has been well and carefully done, and that Mr. Porter is entitled to great credit for the form and completeness of the work.

We have caused to be printed forty-two hundred copies of the report, which are to be disposed of gratuitously as follows:

One copy to each member of this Association, already delivered.

One copy to each accredited member of the Congress.

One copy to each university that sent delegates to the Congress.

One copy to the library of each law school which sent such delegates.

One copy to each of the principal law libraries.

One copy to each of the law reviews and periodicals, and to each of the public libraries, institutions and learned societies in Europe.

One copy to each of the Exposition officials, and to the Departments of Justice and of State, and to the American embassies and legations abroad; and one copy to each member of the St. Louis Bar, who contributed to defray the expenses of the Congress.

It is estimated that about thirty-five hundred copies will be required to supply the demand, as above indicated.

This will leave about seven hundred copies for sale. These can be sold at $2.25 per copy, including carriage. As many of these as the American Bar Association may desire can be furnished to the Secretary of the Association, and the remainder will be retained by the local executive committee, to be sold by them.

The cost of the publication and distribution of the book, including a set of matrices we had made, from which electrotype plates can be prepared for a second edition if that should be found necessary, will come to about $4759.33, not including the honorarium which is to be allowed to the Secretary of the Congress for his services in the matter.

The Executive Committee of the Congress, of which Mr. F. W. Lehmann is Chairman, has on hand, on deposit in the Mercantile Trust Company, St. Louis, the sum of $4929.20, and there is in the hands of the Secretary of the Congress a balance of $1000, making a total of $5929.20.

This will enable us to pay the entire cost of the work and to compensate, although inadequately, the Secretary of the Congress for the time and labor he has bestowed upon the same.

Having completed our work, we now pray to be hence dismissed without day.

Respectfully submitted,

JACOB KLEIN,

August 24, 1905. *Chairman.*

REPORT

OF THE

COMMITTEE APPOINTED AT THE MEETING TO REPORT UPON THE ADVISABILITY OF AMENDING THE CONSTITUTION BY PROVIDING FOR A STANDING COMMITTEE ON TAXATION.

At the meeting of the Association in 1904 the report of the Committee on Jurisprudence and Law Reform stated:

"That we cannot recommend that state taxation shall be upon property actually within the state only;" and it furthermore stated that 'The taxation of personal property should be at the residence of the owner.'"

This part of the report gave rise to a lively discussion, ending in its being referred to the Committee on Uniform State Laws.

This year no printed report has been received from this last-mentioned committee; under the last sentence of the third paragraph of Article XII of the by-laws, which is to the effect that no legislation shall be recommended or approved, except upon the report of a committee, and also that all reports of committees shall be printed fifteen days before the meeting of the Association, if they contain any recommendations for action on the part of the Association on any proposed legislation. No action can be taken at the present meeting of the Association looking to remedial legislation upon this important subject.

To obtain some concerted action on the part of the states in the matter of tax legislation, in order to avoid the injustice of all manner of double or multiple taxation, is a vast problem and sufficient to occupy the entire time of the Committee on Uniform State Laws, if it really were to devote such attention to the subject as it requires. With the expansion of our territory, and the constant growth of our population, and the corresponding increase in wealth, and the complexity of our

interstate commercial relations, the question of taxation, which has been important at all times and in all countries, is growing to be, for us, more and more of a vital issue. Every economic writer who has dealt with the matter, such as Prof. Edwin Seligman, Mr. David A. Wells, Prof. Richard T. Ely and others, in this country, has dwelt upon the injustice arising from conflicting and incongruous laws of the various states on this subject, as a result of which it frequently happens that the same person, and especially the same corporation, is taxed over and over again, in different jurisdictions, on practically the same property. Every lawyer must be familiar with more or less of these details in individual cases, which have come under his notice in the course of his practice.

It seems to us that the subject of federal and state taxation is of such great importance that it is entitled to the most careful consideration by a permanent committee appointed for that purpose, and, in order that we may be in a position at the next meeting of the Association to take some active steps looking to remedial legislation in regard to obtaining some uniformity among the various states, in the laws bearing upon taxation, so that the unjust and unequal burdens imposed upon the people in this country may be shifted in such manner, through a convention or other appropriate body, representing the various states, that the hardships of double and multiple taxation may at last be alleviated, we recommend the adoption at this time of the following resolution:

Resolved, That Article III of the Constitution be amended by inserting near the end of the second paragraph, after the words "On Insurance Law," the following words: "On Taxation." And that Article II of the by-laws be amended by inserting after the words "On Insurance Law," the following words: "On Taxation."

THEODORE SUTRO,
Chairman,
AMASA M. EATON,
JACOB KLEIN.

NARRAGANSETT PIER, R. I., August 25, 1905.

PROCEEDINGS

OF THE

SECTION OF LEGAL EDUCATION.

FIRST SESSION.

Tuesday, August 22, 1905, 3 P. M.

The Section was called to order in the Hotel Mathewson, Narragansett Pier, on Tuesday, August 22, 1905, at 3 P. M., by the Chairman, Lawrence Maxwell, Jr., of Cincinnati, Ohio.

The Chairman:

Gentlemen, as you are aware, the committee have arranged this year for a joint meeting of the Section of Legal Education and the Association of American Law Schools for the purpose of hearing read this afternoon two papers and discussing those papers.

Dean Nathan Abbott, of the Leland Stanford University Department of Law, is to read a paper, which we shall now have the pleasure of listening to, on the subject "Some Questions before American Law Schools."

(*The Paper follows these Minutes.*)

The Chairman:

We shall next have the pleasure of hearing a paper prepared by Dean James Parker Hall, of the University of Chicago Law School, on "Practice Work and Elective Studies in the Law School."

Before commencing to read his paper, Dean Hall said:

"Last year the Chairman chose this as the subject of his address, and in his remarks he criticised any arrangement by which more than one-fifth of an institution's work in three years should be elective. He made so fair a statement that I thought it deserved a reply from those who were of a different opinion, and this joint meeting of the Section of Legal Edu-

cation and the Association of American Law Schools seems to be a proper time for it."

(*The Paper follows these Minutes.*)

The Chairman:

The papers that have been presented are now open for discussion. I suppose we shall be able to proceed more satisfactorily if we take up for discussion now the first paper. The circular which has been distributed suggests that some members have undertaken to lead the discussion on certain subjects, but that must not be considered as a limitation upon the discussion by anybody. I understand that Mr. Hepburn and Mr. Curtis are not here. Their names were down on this circular as intending to say something on the subject of legal history. I observe that Dean Rogers's name appears for the discussion on the question of the uniformity of law degrees, and we should be glad to hear from him now.

Henry Wade Rogers, of Connecticut:

I had supposed that it would be the wish of the Section to dispose of the first part of Mr. Abbott's paper before we came to this subject.

The Chairman:

The first part of his paper was on comity among law schools. Mr. Ashley and Mr. Bates were to say something on that subject. I understand Mr. Ashley is not here, but Mr. Bates is here, and the Chair will call upon him to speak on the subject.

Henry M. Bates, of Michigan:

The discussions in Mr. Abbott's paper have taken a somewhat different direction from that I had anticipated, and consequently I find that in my slight degree of preparedness, for I confess it is such, I am somewhat embarrassed. It occurred to me before this paper was read that, as a prerequisite to any realization of its proposals, with which, I wish to say at the outset, I feel myself for the most part heartily in sympathy, there must be not only some approximation towards uniformity in methods and in standards among the members of this Association, but perhaps by reason of that

a cordial respect for each other and a confidence in each other's motives, and, in the main, in the results accomplished by each of us. I may be mistaken, but several things have come under my observation which, together with a reading of the proceedings of prior meetings of this body, have led me to believe that possibly upon some occasions and in respect to certain methods that spirit of mutual confidence and good will has been lacking. Whether this be attributable to what many think an irrational college spirit or an *esprit de corps* evidenced by different institutions, I do not know. I think all must admit, however, that there are indications that the vociferous undergraduate rivalry sometimes becomes so strenuous that we forget that it has really no bearing on educational problems; and if that college spirit, which certainly has its good points, is on the whole justified as connected with college affairs, it certainly cannot be, it seems to me, with reference to law school affairs. Of course, a prompt reply would be that such differences as exist are differences of opinion, and that even if they have tended sometimes towards asperity, they are not due in any large measure to those rivalries which I have referred to, but result entirely from differences as to methods and standards. It is on that topic that I wish to address the few remarks that I have to make.

At the time I received my appointment to the faculty which I now represent some announcement was made of the fact in the city where I lived, and a few days thereafter I met a very good friend of mine at the club where we had been accustomed to lunch together, a man engaged in practice in that city and connected with one of the law schools, and he congratulated me in a friendly way upon the work I was about to undertake, and then remarked in a somewhat jocular way, "You know that my institution has it in for Michigan." I expressed my surprise at the statement, and I interrogated him as to the reason, and I found that in his case it was based wholly upon his vague notions as to our methods. I asked him what the methods were that he objected to. Well, he did not know

exactly what the methods in vogue in Michigan were; and, as anything I might have said at that time would have been speaking *ex cathedra*, I did not follow the matter up, but after spending a year or two teaching in the Michigan Law School I met my friend again, and then I found, upon renewing the discussion with him, that the methods in his school and those in the Michigan Law School were really very much alike; we had the same courses and pursued in the main almost precisely the same methods. I have recently sent for the catalogues of nearly all of the leading law schools of the country and have made a somewhat careful study of them for the purpose of ascertaining the scope of instruction, the methods pursued and the standards of work required; and, in view of my earlier belief that there was a hopeless dissimilarity as to methods, I was rather surprised to learn that there had been a marked approximation towards similarity of methods and requirements. So that it seemed to me then that the divergencies, with reference at least to the prominent law schools, and, possibly, I may say without offense, those which are connected with universities and have university traditions to uphold, are not, after all, radical as to methods. It is my experience that teachers of law generally are very ready, for example, to acknowledge the powerful influence which those who believe in the case system, and I confess myself one of them, have had upon legal education. The fact is that the principle which they insist upon has been adopted to some extent at least in almost every prominent law school in this country, though in many schools, of course, the case system is used in connection with some other methods. So that an examination of these catalogues showed me that in nearly every school some attention is given to the study of cases, and in most of them a great deal of attention. And the scope of instruction differs much less than I had supposed, and the number of courses in the leading schools and the topics covered are not so widely variant. So it is as to standard. Of course there is a group of schools which have been able to require the academic degree

as a prerequisite to entrance. Others have not been fortunate enough to feel that the attitude of their constituencies, state or otherwise, would justify or permit such requirement, or that, under existing conditions, it would even be right for them to admit only college graduates. But one has only to look back ten or fifteen years and observe the raising of standards all around to become convinced that the time is not far distant when most of us can and will require, as a prerequisite to admission to the law school, some academic work beyond that given in the high schools. I mention this because it seems to me, if I am right in thinking that there has been some approximation and that we are possessed of one ultimate purpose, that we are not as far apart as we have sometimes supposed, and, therefore, that we are in a better position to attempt to realize the plan which Mr Abbott has presented so interestingly this morning, and I have little doubt that, with our Anglo-Saxon way of getting at things, in the course of time such methods as he has proposed and suggested can be arranged. Indeed, I am quite sure that his own experience in another school this summer has suggested to him something of what may be done. I have had some experience myself in teaching at our summer session this year, and one of the most interesting men I met there was a graduate of the Tulane Law School; now an instructor there. He had come to us to get a glimpse of the common law, and the part, suggested by his special training in the civil law, which he contributed to our discussions was as valuable, I am sure, as that of any man in the room. I felt that we had gained by the presence of that man among us. He was willing to come there as a student, although he was well equipped to be an instructor anywhere, I think, and he did, in fact, instruct us there. I also had in the same class a man from an Eastern law school who was filling in his time, and we all felt that he added much to our class-room work, and he was good enough on leaving to say that his time had not been altogether wasted. When one thinks, for example, of the courses given in Tulane under the Roman codes and the

civil law, is it not possible that this interchange of students and of faculty may become immensely practicable and not unusual in the not distant future? We must cultivate the spirit of good will. I think Mr. Abbott's suggestions are founded on a scientifically proven theory, if I may use that expression. No individual, no organization can live within and upon itself exclusively and attain the best results, and I cannot doubt that an interchange of students, professors and library facilities, such as he has suggested, would tend to increase the efficiency of our law school work.

If a dean has been willing to confess to a paper with a "double aspect," possibly I may be pardoned if I say just a word on another topic suggested by some remarks of Dean Hall. That relates to the elective system. It may be interesting to Mr. Hall to know that in Michigan, where we have for years had a group of electives, some of which are pursued in a cursory way because they relate to specialties in a particular field, like the law of irrigation for example, we have by recent faculty action made up a group of eight elective studies taken from the heretofore required work of the regular course, a certain number of which, however, must be chosen by the student. The ever-expanding field of law has made us feel that we must do that in order to do justice to those courses which we offer.

The Chairman:

We shall be very glad to hear from any other gentleman present on the subject of comity among the law schools.

If no one wishes to discuss that subject further, suppose we take up the particular branch of comity which is suggested by co-operation in producing text books for law schools. I see that our friend, Judge Ingersoll, is expected to say something on that subject.

Henry H. Ingersoll, of Tennessee:

Mr. Chairman and gentlemen, I had supposed that, as I came at the end of the list, before my time to speak came the

sun would have set and I should thus have escaped a duty which I confess I feel ill prepared to perform.

To my mind this subject presents difficulties that I have been unable to fathom. I have not thoroughly understood what was meant by co-operation in text books. I have known of collaboration, but not of co-operation, in such connection. In thinking of those two words over a long stretch of years there came to me a far cry from my old Latin professor, dear "old Tommy," with his *hic labor hoc opus est*, and I did not know which was going to give us the most trouble, the collaboration of books or the co-operation in making books. The difference will be readily understood by those who are fond of the athletic field by remembering that the base ball team co-operates and the foot ball team collaborates.

How it would be possible for a half-dozen teachers of one topic to collaborate a text book which should be the joint production of all by closer communion without frequent intercourse and almost weekly meetings I do not see. Who, for instance, shall determine what should be in the book? Suppose six of us undertake to write upon the subject of pleading and practice. Ultimately, perhaps, it could be settled, as we settle questions in America, by the vote of the majority. But would not that require more labor and more trouble than would be profitable?

Now, I can see very much in the proposition for comity. Indeed, I should like to hear somebody speak against comity in the law schools so that I could see what possible objection there could be to the teaching by a professor in a strange school. I am very sure it would be better for the student, and I think it would be as much better also for the tutor. There I can see how there can be co-operation in instruction; but how we shall have text books prepared for all the law schools by different professors upon a given topic is a matter that is past my comprehension. Possibly we might do as novelists sometimes do, one professor write one chapter and another professor write another. But what good would that do?

Why not have one man to do it all and then send it to his friend for his suggestions? If two men can do it better than more, why let the two co-operate in producing the book. But I am bound to say that I believe that more than two engaged in the production of a treatise would be harmful and confusing. Of course, we could produce a digest; books of that character can be produced by an editorial force, of which we have a very fine illustration in the Encyclopedic Digest of Illinois; but until somebody shall show me the way I shall not be able to co-operate in the production of law books nor to see how others can do it. Therefore, I readily yield to the other gentlemen who have been appointed to speak upon this subject to show us, in addition to what has been so well said by Dean Abbott, how we may practically bring about such results. Having been all of my life a practicing lawyer, much more than a teacher, I have seen the difficulties that come from having too many lawyers in a case. I never saw a case where I did not think it was better served by two lawyers than by more, and I am inclined to think the same would be true in the preparation of text books for our law schools.

The Chairman:

If Judge Howe were present, we should be glad to hear from him on the subject of co-operation in producing text books, but I believe he is not present. Does any other gentleman wish to say anything on the subject?

James H. Brewster, of Michigan:

Is it not possible that there could be co-operation in the production of text books in the encyclopedic method; that is, an encyclopedia containing short articles by different lawyers on legal topics, whether the writers be practicing lawyers or law school teachers? It seems to me something might be done in that line.

The Chairman:

If members do not desire to discuss this subject further, we will go to the subject of "Uniformity of Law Degrees." Dean Rogers, we shall be glad to hear from you on that subject.

Henry Wade Rogers, of Connecticut:

Mr. Chairman and gentlemen, Dean Abbott's paper is suggestive of very many interesting questions, and I am sorry that there appears to be a reluctance to enter on the discussion of them. I think he suggested enough to keep us busy debating all the afternoon. The particular portion of his paper which was assigned to me to open the discussion upon is very brief. I am sorry that I have been assigned to open the discussion upon that particular phase of the paper, because, if I am to open the discussion, I feel that I am on the wrong side of the question.

Those who suggest that American law schools should confer a new degree have the burden on their shoulders, it seems to me, of establishing the propriety of that course. What the argument is in favor of conferring this additional degree I do not fully know. Men who go through the liberal arts course of four years and then pursue an advanced course in arts for two or three years obtain the degree of Doctor of Philosophy. And, in analogy to that idea, it is asserted that if one who has completed the four years arts course and obtained the degree in arts chooses to go on for two or three years more, but elects to take his work in jurisprudence, he is as much entitled to the doctorate in jurisprudence as he would have been to the doctorate in philosophy if he had gone on the same length of time in the advanced work in the arts course. It does not seem to me that the conclusion follows at all. I am going to state my objections to it, and then I hope, if there are other arguments than the one I have just stated in favor of it, we shall hear what they are.

I object to this new degree for two or three reasons. At the outset I wish to say that the tendency to multiply degrees is objectionable in itself. The American colleges some years ago, when they departed from the old regime and introduced new courses, thought it necessary to establish new degrees to distinguish the new courses. We had the degree of Bachelor of Arts and the degree of Bachelor of Science and the degree

of Bachelor of Philosophy and the degree of Bachelor of Letters. Now, as I understand the trend of university sentiment today, it is away from all that sort of thing, and there has been growing up in this country, especially during the last twenty-five years, a disposition to get rid of the degrees I have named, except the A. B. degree, and to put upon an equality the various courses in the American colleges. In a number of institutions only one degree is given which represents the attainments which a man makes who spends four years in a college in the pursuit of liberal arts studies. Personally, I think the trend is in the right direction in reference to the degrees which are given for work in the liberal arts course. It seems to me that the law schools are asked now to enter upon a policy which the academic colleges are repudiating. We are asked to establish a new degree, to establish two degrees for the same work, while the academic colleges are trying to get back to a basis of one degree. Another objection that I have is this: If this proposed degree, Doctor of Jurisprudence, is conferred, it destroys the degree of Master of Laws. It makes it impossible, practically, for all the schools to give a degree to students who elect to go on for a fourth or even a fifth year. If I understood Mr. Abbott, he implied that the men who took a fourth year in a law school are generally the lame ducks. I take issue with him there; I do not think that is so. It certainly has not been my experience. In the institution with which I am connected we have three years for the degree of Bachelor of Laws, then a master's course for another year, and then a fifth year which leads to the degree of Doctor of Civil Law, and my experience has been that the men who come there and take a fourth or a fifth year are not at all lame ducks; as a rule they are very bright men. We had this year a Chinaman who was one of the most brilliant men in the university. He has been with us for five years studying jurisprudence, and now he goes on to Berlin and Paris for two years further study. There are others. I simply want to take my exception to that statement. I think

there is a place for the degree of Master of Laws in American law schools, and there are a great many American law schools which are conferring it. As I say, this proposed degree makes it impossible to give a degree to the man who goes on for a fourth year. My third objection to the proposed degree is this: A degree in law is supposed to represent the attainment which a man has made in the study of law. It does not represent the attainments made in some other department of study. A man goes on and takes five years in a college of liberal arts, or six or seven years; at the end of the fourth year he gets his A. B. degree, and he continues *under the same faculty, taking advanced work in the liberal arts courses*, and he gets his doctorate in those courses. Now we are asked to allow him, after he obtains his A. B. degree, to begin an entirely different course of study under a different faculty and to give him at the end of three years of study in it a doctorate. We are asked to establish two degrees which represent an exact equality in the attainments which men have made in the law. The LL. B. degree is to be given to the man who has studied for three years and who has not the advantage of the A. B. degree. And the degree of jurisprudence is to be given to the man who has studied law for the same length of time and whose knowledge of the law is the same as the other man's, but who happens to have an A. B. degree. As this law degree represents attainments in law only and should represent exactly that which the A. B. degree represents, attainments in arts, I object to giving two law degrees, one a bachelor's degree and the other a doctorate, for the same attainments in legal knowledge.

Now, I have stated my objections. This matter of uniformity in degrees branches off into certain matters which were not suggested in Mr. Abbott's paper. Uniformity in degrees means not only uniformity in the kind of degree, but also in the conditions under which the degree is conferred, uniformity in the conditions required for admissions to the law schools and uniformity in the conditions which are prescribed

for the graduation of students. That opens up, of course, a very wide field of discussion upon which we may not care to enter at this time. Certainly it seems to me impracticable, while, from certain points of view, it would be desirable that we should have uniformity as to the conditions governing admission to law schools and as to conditions which govern graduation from law schools, to establish any uniformity as to the conditions governing admission to law schools. That which might be very desirable in that respect is impracticable and that which is practicable is not desirable. Personally I hope the day will come, although I do not expect to live to see it, when there will be uniformity in the conditions governing admission to American law schools, and I hope that when that time comes the standard will be a college degree, not only for law schools, but for theological and medical schools. But to suggest at this time that a college degree should be required of students entering American law schools is to suggest that which is entirely impossible. If the law schools were willing to come to that standard, it would be impossible for them to come to it today. There are 15,000 law students in the United States, and of that number about 3000 have degrees. Now, it is impossible to suppose that the American law schools are going to establish a standard governing admission which would shut out those 12,000. The argument that law schools ought not to establish that standard because it would shut out such men as Abraham Lincoln is often made, but it seems to me to have very little force in it. We know that poor boys work their way through colleges and through law schools, and through both, and Abraham Lincoln could have done the same. It is very much easier to establish uniform conditions, after men have entered the law school, governing their graduation than it is to agree upon uniform conditions governing their admission to the law schools. I am very happy, indeed, over the fact that so many of our law schools have practically established uniform conditions governing the graduation of men after they have once been admitted into the law schools,

and I hope the day is not far distant when every law school which makes any pretensions to being a reputable law school will insist upon three years of law school study instead of two years, as some few do at the present time.

The Chairman:

Mr. Brooks, I believe we may expect to hear from you on this subject of uniformity in law degrees.

James B. Brooks, of New York:

Mr. Chairman and gentlemen. I am very happy to have heard Mr. Rogers before I was called upon. I am too much in sympathy with what he has said to make a good argument. I am interested in the subject to the extent that it deserves, I think, and still my mind cannot compass it as being of the greatest importance, looking upon a degree as rather the product of a thing than as the root of anything. A degree should depend upon what goes before, as has been suggested by the previous speaker. Uniformity of standards and requirements in college are of the first importance before considering the subject of degrees. I want a little knowledge that I have not got. In speaking of this new degree I observe that Mr. Rogers uses the word "jurisprudence," and I want to inquire if that is the language used. Is it Doctor of Jurisprudence?

James Parker Hall, of Illinois:

The Latin words are *Doctor Juris;* in English, Doctor of Law.

James B. Brooks:

I was prepared with a tremendous demurrer for Doctor of Jurisprudence.

Henry Wade Rogers, of Connecticut:

I used the word "jurisprudence" because that was the expression used in the paper.

James B. Brooks:

If I were a younger man I should indulge the hope that I might live to see the day when we could put out a Doctor of Jurisprudence. That little Latin word "*juris*" has been

translated law, but I never found a Latin teacher yet who knew what it meant. That "J. D." might mean John Doe. I really do not know what "*jus*" or "*juris*" means in this connection.

I agree exactly with what has been said. I agree with it entirely. I am not in sympathy with the idea that, because a man had the benefit of a four years' undergraduate course, he is entitled to come into my school and take precisely the same work as a bright high school boy and go out, graduating perhaps by the skin of his teeth, with a doctor's degree, while another boy, who is going to go all around him in his profession, is going out with a bachelor's degree. The brilliant fellows that come out of our colleges and from the high schools, many of them, are the men who are figuring largely in our profession and are honoring it and are meeting with great success, dependent, perhaps, more upon their tact and natural gifts than upon all they learned in the law school. So I think that the law school degree should stand by itself absolutely alone. As has been suggested, I would have the law school degree mean something, and there should be no uncertainty about that meaning; I would have it mean exactly what has been acquired by the student in his legal education, no matter where he comes from, no matter what intellectual culture he has had. The real thing should be the degree of knowledge of the law that he has. That is my notion. The degrees in law, in my opinion, should be made more difficult than they are. A man who has been a lawyer before he was ever a teacher sees the broad field of the legal profession with all its growing scope, its great power and its mighty influence in almost every department of society, and it has an influence in determining these matters of education. The legal profession is influenced by what we are and by what we are doing in our schools in this direction, and I think it would be the voice of the active profession today that the legal degree should be made difficult, so that when a man gets one it shall mean something and be worth something. In that connection let me say that the

world is swift. To a man of my age it makes his head swim; its commercialism, its getting rich quick, its trying to get into the law schools, get in and out quick, and its trying to do a great deal is a slushy way, and get out and get rich. Why, a man isn't satisfied nowadays unless he becomes a millionaire in a year or two after he gets into business. I remember one of my classmates years ago who worried himself to death because at twenty years of age he had not become famous. You see, even so long ago as that, men were beginning to get this hurly-burly rush of life idea. Now, I would have the degrees made more difficult to obtain. I would have the courses lengthened and stiffened. I would have the degrees to stand alone. The law degrees should mean law and nothing else. As has been said by the preceding speaker, uniformity of standard is the thing to be worked out first. I do not suppose we shall ever see the day when every law school will teach precisely the same thing, but in substance we can have the same. I am conservative enough to be fond of the old A. B. and LL. B. degrees. I hold to them, and I should, as far as possible, make the course of study in the different law schools conform to the best standard, always raising the standard and keeping those degrees as nearly uniform as possible, making, perhaps, small modifications to accommodate the tests of some faculties, but making no substantial change.

The little speech that I had prepared to make I have not made. The paper was not exactly what I thought it would be, and I confess I did not have much of an idea what it ought to be. At any rate, the thing I intended to say I have not said, but my task has been rendered very easy by the speech of the preceding speaker.

The Chairman:

We shall be very glad to have Dean Brooks say now what he was intending to say.

James B. Brooks:

No, it is hardly worth while.

Henry H. Ingersoll, of Tennessee:

I may, perhaps, contribute some little interest to this discussion by asking a question. The University of Tennessee is likely soon, I think, to enter upon a new field in its law department consequent upon these conditions: There are resident in the city of Knoxville a dozen or fifteen young gentlemen, graduates of the university in the last ten years, who wish to take an additional course. The university has never given anything in law except the degree of Bachelor of Laws, and it will not give any additional degree except as the result of at least two years' further work, for that is the tradition and practice of the university. Now, suppose there shall be a degree given to those already holding the degree of Bachelor of Laws, as a result of two years' work of some kind, one, at least, in residence and in the class room, what should that degree be called? You, Brother Rogers, say Master of Laws?

Henry Wade Rogers, of Connecticut:

As I understand it, Judge Ingersoll, there are a great many law schools. I wish we had the statistics here, because I should be interested in knowing just how many there are; but I know there are many law schools in this country which confer the master's degree, and I think they proceed upon the same theory that the colleges of liberal arts proceed in this country in conferring the degree of Master of Arts. In most of our American colleges, after a man has been graduated and taken his Bachelor of Arts degree, he may stay in the institution and do resident work and at the end of one additional year he takes the degree of Master of Arts. Now, the law schools have adopted that idea and applied it in the matter of law degrees. So that, if a man spends an additional year in the institution, he gets the Master of Laws degree at the end of the year just as he would get the Master of Arts degree if he went on one year longer in the arts course.

Henry H. Ingersoll:

Are there not some schools in the United States which require two years additional for the degree of Master of Laws?

Henry Wade Rogers:

No, sir.

Henry H. Ingersoll:

Is the degree of Doctor Juris, whatever that may mean, given by any school in the United States now?

James Parker Hall, of Illinois:

It is given by the Chicago school.

Henry H. Ingersoll:

For how much?

James Parker Hall:

For the original three years.

Henry H. Ingersoll:

Do you give them both?

James Parker Hall?

No, sir, only one; the doctor's degree.

Henry H. Ingersoll:

That includes Doctor of Laws?

James Parker Hall:

No, sir; it is just as in the German universities.

Henry Wade Rogers:

There are one or two other law schools which do the same thing. I think the law school of the University of New York does it, and I think the Boston University Law School gives the degree of Bachelor of Law, a J. B. degree, to those who wish to take it who have already the Bachelor of Arts degree.

Henry H. Ingersoll:

Having practically the same requirements?

Henry Wade Rogers:

Yes, sir.

The Chairman:

Shall we hear from any other gentleman on the subject of uniformity of law degrees?

William C. Dennis, of New York:

Perhaps in the absence of anyone else from Columbia Law

School I might make the report which I think Dean Kirchwey would make if he were here, as to the action taken at Columbia last year. I believe they decided substantially, for the reasons outlined by Dean Rogers, that they did not wish to make this change and give the new degree. The law faculty reported this to the University Council, I believe, and they were supported by the Council and by the President. Personally it seems to me this is a regrettable decision, but they made it unanimously, and they made it along the lines indicated in the remarks of Dean Rogers. They did not think the analogy from the degree of Doctor of Philosophy was strong enough to be a sufficient justification of the new degree. They felt that if the proposed change was made it could not possibly be confined to the schools which require a college education for entrance, nor could it be confined to the graduates of such schools who had a collegiate education; but the result would be that all law school graduates would receive this degree and so it would come to represent nothing higher or better than the degree of LL. B. does at present, while the degree of Doctor of Philosophy would be cheapened. It is however the ambition of the faculty at Columbia in the future to establish some higher degree in law, such as has been suggested by Dean Rogers.

Henry H. Ingersoll, of Tennessee:

May I ask one more question? My Brother Brooks has ventured to speak—for it seems to me it was a venture—of the degree of Doctor of Laws being given as a reward for work performed at the university. Is that done at any school or university in the United States?

James B. Brooks, of New York:

I think it is.

Henry H. Ingersoll:

I was surprised to hear it spoken of as a degree for work done.

James B. Brooks:

I think the Boston University puts the J. D. and the LL. D. optional; it may be one or the other, but they have a course there that leads to it, I think.

The Chairman:

If either of the gentlemen is here who was to say something on the subject of legal history, we will take that up. Do other members of the Section wish to take that up, or any of the other subjects mentioned or suggested by Dean Abbott's paper?

If not, we will consider Dean Hall's paper open for discussion, and we shall be glad to hear from anyone who has a word to say on the subjects presented in the paper.

The other subject mentioned in this schedule, I believe, is to be taken up tonight, and therefore it is not desired to speak about it now; that is, the subject of an official organ for the Association of American Law Schools.

On motion, an adjournment was taken until 8.30 P. M., to meet in connection with the Association of American Law Schools.

(*See the proceedings of that body in a subsequent portion of this volume.*)

SECOND SESSION.

Wednesday, August 23, 1905, 3 P. M.

The Chairman:

We have received a telegram from our Secretary, Charles M. Hepburn, announcing his inability to be present on account of illness in his family. I suppose we ought to elect a secretary *pro tempore* in his absence.

William P. Rogers, of Ohio:

I move that Professor H. S. Richards, of Wisconsin, be elected Secretary for this meeting.

The motion was seconded and adopted.

The Chairman:

It is customary at this time to appoint a Nominating Committee.

J. Newton Fiero, of New York:

I move that the Chair appoint such committee now.

The motion was seconded and adopted.

The Chairman:

I will appoint on that committee J. Newton Fiero, of New York; George M. Sharp, of Maryland, and Horace L. Wilgus, of Michigan.

At the request of the officers of the Section and in accordance with the usual custom as Chairman of the Section, I have prepared an address which I will now proceed to lay before you.

(*The Chairman then read the Address which follows these Minutes.*)

The Chairman:

We are fortunate in having with us today Mr. Lucien H. Alexander, of Philadelphia, who was a member of the Board of Law Examiners and had a most important part in bringing about the establishment of the State Board of Examiners in Pennsylvania. He has very kindly arranged to read to us a paper entitled "Some Admission Requirements Considered Apart from Educational Standards."

(*The Paper follows these Minutes.*)

The Chairman:

We are very much indebted to Mr. Alexander for his lucid and interesting explanation of this most important subject.

The Law School of the University of Illinois has recently undertaken an inquiry to ascertain the sentiment of the profession with respect to some of the conditions of work in the law schools supposed to be important by this Association. Professor Northrup of that school has kindly consented to give us a report of the results of those inquiries from members

of the Bar, and I know we shall all be very glad to hear from Professor Northrup.

Elliott J. Northrup, of Illinois:

Mr. Chairman and gentlemen, I should say to you that the paper which I will read was prepared by Dean Harker, of the College of Law of the University of Illinois, at the request of the Secretary of this Section, and by him was sent here and has just been handed to me, I being the only representative of that school present, and I have therefore been asked to read it.

(*The Paper was then read, but the manuscript was not placed in the hands of the Secretary.*)

The Chairman:

An opportunity is now offered to the members of the Section to give us the benefit of their suggestions with respect to the subjects covered by these papers. Without any prearrangement they all seem to have run to the question of preparation for the Bar, the admission to law schools and the importance of insisting that men who are to come to the Bar and exercise the franchise of a lawyer shall devote the time that is credited to him in preparation exclusively to the study of the law during that period. I am sure that this must be an interesting subject to many gentlemen who are present, and I trust that we shall hear from some of them.

William Draper Lewis, of Pennsylvania:

I think we all agree with Mr. Alexander when he lays emphasis upon the necessity of the student's devoting his whole time, at least for three years, to the study of law, whether it be in the law school or in a lawyer's office. There was one fact assumed in Mr. Alexander's paper which I know he will pardon me if I take issue with him on. I gathered from what he said that the law schools were turning out a large number of men each year well trained in substantive law, but not at all trained in practice.

Lucien H. Alexander, of Pennsylvania:

Not thoroughly trained in practice, I said.

William Draper Lewis:

I confess that I gained the impression from hearing the paper that the training which they got in practice did not amount to a great deal. If I had been asked my own conception I should have said just the contrary, taking the law schools in the United States as a whole, that the training in substantive law was somewhat open to criticism in a large number of institutions, but that if we took the law schools as they existed, good and bad, large and small, we should find that the instruction which they gave in practice was really good. In many institutions that I have visited the training in practice is the best part of the work that is given, and even in those institutions connected with universities that are supposed to emphasize the substantive part even at the expense perhaps of practice, I am quite sure that the average student who goes out knows actually a great deal better how to practice his profession if he has never been in a law office than the great majority of men who have come to the Bar in the last twenty-five years. I can speak of my own experience. I was in a lawyer's office for three years, and I came out of it without any real knowledge of practice. I do not think that is true of the graduates of the law school that I represent. I do not think it is true of the graduates of the great majority of the law schools of the United States. In other words, I have the idea that practice is not a very difficult subject; that the main elements can be learned comparatively easily, and that the law schools, while they do not pretend to turn out men perfect in that respect, do turn out men who are well trained for the practice of law. I think if you will ask members of Boards of Examiners you will find that most of them do not think that the law school students, as a class, are deficient in practice. I asked one of the members of the Pennsylvania Board of Examiners that question, and he said that he could not observe any marked excellence or any marked failure in practice as between one class of students and the other. The conception that law schools fail to teach

practice, which was regarded by the writer of the very interesting paper that we have heard as one of the great evils hanging over the Bar, is I believe very largely the creation of his imagination. I know that there is a general feeling to the effect that law school men are not up in practice. This feeling is due to the fact that at one time men merely went to law schools and listened to a few lectures. The lectures were not good in substantive law or in practice, and the result was that the law school men were badly trained in everything. But that condition has passed away and I think the law school student of today is as well trained in practice as any of the products of the good lawyer's offices in olden days. I do not say he is perfect, but I say he is better than those who attend an office and without any systematic supervision of their instruction attempt to pick up instead of learning the fundamental rules of how to practice their profession. And this misconception led Mr. Alexander to make a suggestion which I think on the whole works against the interests of legal education, and that was that the states should require that at least a portion of the time of a student of law should be spent in the office of a practicing lawyer. I think his idea was that after the completion of a course of study of three years in the law school there should be added one year of practical instruction in a law office. I think that suggestion is impracticable for the reason that it cannot be practically carried out. However desirable it may be for a young man to come in contact with the work in a law office, the large law offices today have no use for him unless he is a well-trained man, and when he is a well-trained man they are glad to have him. The best evidence, it seems to me, that the products of our law schools are well trained is the fact that neither Dean Ames, of Harvard, nor Dean Kirchwey, of Columbia, nor Dean Huffcut, of Cornell, nor we in our own law school, experience the slightest difficulty in getting the best of our men practically instantly placed, and oftentimes at very fair salaries, in the large law offices. It seems to me that is

an answer to the statement that we are not turning out men well trained in practice or that the men we do turn out need a clerkship, as distinguished from a position on a salary, in a law office.

George L. Reinhard, of Indiana:

I think the members of the Section are to be congratulated on the privilege of listening to these excellent papers. I do not feel myself prepared to enter upon an extended discussion of them. I simply desire to say a few things in regard to one of the features contained in the able address of our Chairman, namely, the subject of fake law schools. That we have such schools in this country cannot be denied. I do not mean to say that all the law schools, which are not members of the Association of American Law Schools, are fake schools. On the contrary, I know very excellent schools which are not members; I think they ought to be members, but they are not, and I think we should work to get them in. But that there are many law schools which may properly be called fake law schools there can be no doubt. Their existence is brought about in many sections of the country largely by the conditions prevailing there, the want of any considerable requirements for admission to the Bar, indifference on the part of the Bar to having these higher requirements and indifference of public sentiment respecting the entire subject of preparation for admission. In my own state, while I am sorry to say that we still have that abominable constitutional provision which, in effect, allows a man to practice law if he has never been convicted of a crime, the sentiment for higher requirements for admission to the Bar and for legal education has been growing in the last few years, and we have now pending a constitutional amendment which is to be voted upon at the next election repealing that obnoxious provision of our law and leaving it to the legislature to decide what shall constitute the qualifications for admission to the Bar. There are many such law schools in the country, as I have said, and I am sorry to say we have some in our own state, and this is to be attributed

largely to the fact that we have no requirements for admission to the Bar. Of the ten or twelve law schools in Indiana, not more than one would be eligible to membership in the Association of American Law Schools. The same is true, as we have heard in a previous discussion, in many of the Southern and in some of the Western states. The question is, How can we reach those law schools, and either improve them or drive them out of existence? I confess that I have no specific plan to propose, but I think that is one of the subjects most vital to the welfare of our profession and to the administration of justice throughout the country. I am sorry some remedy has not been suggested in these very able papers. It may be said that one remedy is legislation. That, of course, would be adequate if we could obtain it, but on account of the indifference that I have spoken of it is impossible, perhaps, at the present time to obtain such legislation. In my own state anybody can start a law school who wants to. There is no trouble to get a charter under the general laws. The incorporators do not have to give any guarantee as to what they will require in the law school or how much property they have to invest in it, or as to what shall be the standard, or what the equipments are with which they will conduct it. Anybody can start a law school just as anybody can start anything else as a business enterprise. Now it seems to me that one of the most effective remedies would be a law which requires that before the projectors of a corporation can obtain a charter for the purpose of starting a law school or any other educational institution they must furnish a certain guarantee of good faith and of ability to do good work. How that can be brought about I am not at present prepared to say. I may venture to suggest this, however, that the American Bar Association, and the Bar of the country generally, can do a vast deal. Public sentiment must be created in order to bring about better laws on this subject, and no set of men can do more toward the creation of public sentiment than the lawyers of the country. The state and local Bar Associations ought to take hold of this

thing and see to it that these fake law schools are not only discouraged, but driven out of existence. This is where, I think, the American Bar Association can exert a beneficial influence. It has already accomplished a great deal, and it can accomplish very much more. I think this is one of the great questions that confronts us. It is certainly so in the West, and it is a question that we shall all have to deal with sooner or later.

Franklin M. Danaher, of New York:

There are always two sides to any important question, the practical and the theoretical. Referring to Mr. Alexander's paper, I want to deal with the practical side of the teaching of pleading and practice in law schools as it has been evidenced to the New York State Board of Law Examiners. I can, without being egotistical, speak from a most abundant experience. Three years ago at the meeting of this Section the learned professors of the law schools were discussing the question whether they could or could not teach pleading and practice in the law schools; whether it was a proper subject to teach, or whether it should not be relegated to the law offices; and they made a request that some practical demonstration be made of the advantage of teaching pleading and practice as far as the law schools were concerned. The New York State Board attempted at that time to make a practical test. It prepared six questions on pleading and practice for its examinations succeeding that meeting of the Association. There were about six hundred in the class to be examined, and out of that number less than seventy were competent to be admitted to the Bar upon passing 66⅔ per cent. of those questions. I can say today, and say it earnestly and practically, based upon the greatest amount of experience, if we made a proper knowledge of pleading and practice a test of admission to the Bar not ten per cent. of the applicants would pass the examination I say, from the standpoint of an examiner who has studied the subject at first hand, and under the direction of the Section of Legal Education, that the teaching of pleading and practice, as far as the law schools are concerned, is an

absolute dead failure. It was the rule in New York up to 1895 that all students should spend not less than one year in a law office. In 1895 the judges of the Court of Appeals, in revising the rules regulating admission to the Bar, changed that requirement, and the rules now prescribe that a man may take his three years of law study, two years if he is a college graduate, either in a law school or in a law office, or partly in one or partly in the other. We have come in the State of New York to consider that change unwise. We find that, no matter how much a young man may know about substantive law, how much he may know about the Constitution, about torts and about insurance, he knows little or nothing about either practice or pleading. So we now have under advisement the necessity of compelling all applicants for admission to the Bar to spend not less than a year in the office of a lawyer to learn those important subjects in which they are most deficient. In our last examination one of the questions we asked of the students was to draw an affidavit of merits. We found that not more than twenty students out of a class of six hundred and twenty-five could draw an affidavit of merits properly. A great many of the applicants had never heard of such a document. I do not deprecate the study of pleading and practice in law schools, and I think it is a most essential part of the curriculum, but I believe they do not teach it properly. I was very much interested in Mr. Alexander's paper. It is a fact that young men who come to the Bar in the State of New York from law schools all over the country are absolutely deficient in pleading and practice.

Eugene Wambaugh, of Massachusetts:

Some eight or ten years ago the Committee on Legal Education of the American Bar Association recommended that the examiners should prepare in each state a list of the forms with which they thought candidates for the Bar should be acquainted and also a list of the important local statutes. As far as I know that recommendation has not been followed. It would be possible for candidates for the Bar to get information as to

the requirements of the examiners from the questions, but in most of the states—including until recently, and perhaps now, the State of New York—the examiners have kept secret their past questions. Consequently two of the natural modes of acquiring this information have been kept from the candidates by the very persons who should have afforded them this assistance. The assistance must necessarily come from the persons peculiarly acquainted with local law. It cannot come from the faculty of any law school that purports to be a national school. Knowing what I do of young men who are preparing themselves for the Bar, I feel safe in averring that if this short list of forms and of local statutes were prepared more than ninety per cent. of the young men would know these forms and these statutes with such perfection as to convince us that both the memory and the energy of our young rivals are fully equal to our own.

In listening to these papers I was struck with the fact that they all came to precisely the same conclusion, namely, that there is much for us to do. That gives hope for the future of the American Bar, when we have this practical unanimity from persons representing law schools and active practice and from persons representing the whole of the United States, and we can be certain that the time has come when our legal education will improve. But there are other grounds for believing that our legal education will improve. The first ground—the one which I detected in the addresses—is the dissatisfaction of the members of the Bar with the present condition of legal education. But there are other grounds. One is that in the last twenty-five years, to take merely a reasonable time, the advance has been enormous. In 1880 there was but one Board of State Law Examiners, namely, in Ohio. There are many such boards now. In 1880, and for many years thereafter, the questions asked in examinations were almost exclusively definitions and classifications, questions whose answers were simply a matter of memory, and questions for which men were prepared by the rapid study of manuals not more than

three-quarters of an inch thick. But now for at least ten years the questions asked by the examiners I think in almost all jurisdictions have been largely practical problems; and practical problems of course cannot be answered on the basis of mere memory. In the next place, the advance in law schools has been tremendous. The Chairman, with a too kindly memory, I think, was of opinion that in 1880 there were seven law schools with a three years' requirement. It is a matter of no vast consequence, but my own opinion is that at that time there were only two law schools with that requirement, and that as late as 1892 there were only three. Today, by mere accident, in looking over the list of law schools belonging to the Association of American Law Schools, I discovered that west of Pittsburgh there are actually twenty law schools now with a three years' requirement. These are grounds for hope, then. We have not only the ground that today we are dissatisfied and want something better, but we have the ground that in the last twenty-five years we have done enormously better than our predecessors did.

Henry Wade Rogers, of Connecticut:

The hour of six o'clock is approaching, and I dislike to divert the thought of the Section from the subject that has just been under discussion, but I came into the room this afternoon to ask action on the part of this Section upon a subject which Mr. Alexander has dealt with in his paper. When the Section was established one of the evils which the Section was framed to strike at was the practice which was prevailing very generally throughout the country of admitting students to the Bar upon their diplomas from the law schools. This Section is on record on that subject, and I think the American Bar Association is also on record on the subject. I was very much disturbed when I listened to the address of President Tucker this morning when he told us that the New York legislature had passed an act which looked towards permitting the courts in the State of New York to admit upon diploma the graduates of certain law schools. It appeared to

me as though that was decidedly a backward step. The existing practice of admitting upon diploma has been abolished in many of the states, but as Mr. Alexander stated there are still fifteen states in which the practice prevails. It is not in the interest of the profession or in the interest of the schools that the practice should continue. A strong school does not need any such prop, and a weak school should not be clothed with authority to admit to the Bar. This action taken by the New York legislature has been explained to me this afternoon by a gentleman from New York who says that it does not mean what I feared it did. It seems the history of it is this: The New York code has for years provided that the Court of Appeals in that state might in its discretion admit to the Bar the graduates of certain schools which are specified in the code. But the Court of Appeals does not permit the students to be admitted on diploma and has not for some years. A new school has recently been established in the state which wished to have its name inserted in the code with these other schools, and it succeeded in getting an amendment through the legislature so inserting its name. Now, that appears to be all there is of it. The Court of Appeals is not going to admit on diploma, but so long as there are fifteen states left in which this pernicious practice prevails I think we ought to strike against that practice, and I therefore propose this resolution:

Resolved, That the Section of Legal Education of the American Bar Association desires to reiterate the disapproval heretofore expressed of the practice of admitting to the Bar on law school diplomas. The Section is convinced that is not in the interest of the schools or of the profession that graduates of law schools should be admitted to the Bar without examination, and it recommends that the American Bar Association should again express its opposition to any such policy.

I move the adoption of this resolution.

James Barr Ames, of Massachusetts:

I support the resolution.

The Chairman:

Before the question is put, the Chair would inquire if anyone else wishes to speak on this subject.

James H. Brewster, of Michigan:

Some one has asked why it is that Michigan does not make higher requirements for admission to its law school. The large school at the University of Michigan is a state institution and is supported by the people of the state, as the University is. Therefore it is more difficult to carry out any reforms that the faculty might wish to see carried out than it is in any private law school. Some members of the law faculty are in favor of at least the equivalent of two years' work in a college as a requirement for entrance to the law school, but there are practical difficulties in the way of bringing this about. A farmer taxpayer is apt to say that he must have his son educated as a lawyer without sending him to college first. As the law school is a state institution, supported largely from the public funds, the faculty would have difficulty, in the face of such an argument as this, in bringing about a change that they might wish to make.

There is another matter which I think ought to be mentioned in view of Dean Rogers's resolution and in connection with what Mr. Alexander has said about certain law schools which "still cling tenaciously to the privilege of admitting their students to the Bar on diplomas." At the present time the graduates of the Law Department of the University of Michigan are admitted to the Bar under a statute of the state, and it might therefore be inferred by some that the law school of the University is one of those schools which tenaciously cling to this privilege. But this is not so, for the faculty are willing that their students should pass an examination before the State Board of Examiners. There is a statute of the state, however, that relates to certain private schools as well as to the University Law School, and it may very well be said that the State Law School, a public institution, is in a different position from that of the private school. Its faculty are

in a sense public officers, and they are perhaps as well qualified as are the members of the State Board of Law Examiners to say who shall be admitted to the Bar; and having no direct interest in the state funds which support the school, it makes no such difference to them, as it might make to those connected with a private school, how many students attend the school or how many are admitted through it to the Bar.

On these two points I feel at liberty to say that the law faculty of the University of Michigan are in accord with the highest ideals that any man may have in regard to raising the standards for entrance into law schools or for admission to the Bar.

As to the matter of practice work which has been referred to, permit me to say that, having been graduated from an Eastern law school and having practiced law sixteen years, and having been connected with the University of Michigan Law School for eight years, I have taken pains to inquire into this subject and I learn that throughout the West, and there are states besides New York where questions of practice and pleading arise, the graduates of Michigan are better prepared for practice, because of the courses in practice at that school, than are those who have studied, or attempted to study, in offices.

I think that a reference to the American law school system, a system approved by the American Bar Association, as a monster, is going a little too far. Many of the men in charge of our law schools have been practicing lawyers and are just as much interested in the elevation of the Bar as are members of the Bar generally. Many of the members of the faculties of our law schools are members of the American Bar Association, and they are enthusiastic in any movement that will tend to raise the standard of admission to the Bar. I wish to be emphatic in my denial that there is any danger from the law schools to the work that is being done for the elevation of the Bar.

Fabius H. Busbee, of North Carolina:

I desire to say a single word on the teaching of practice,

because, as I understand the drift of a part of the argument that I have heard, this particular branch of legal study cannot be handled by trained lawyers in a law school and is to be turned over to the general practitioner, who will thus get all kinds and classes of law students, for whom there is really no use in a lawyer's office. Fortunately, we have a divergence of opinion among the law professors on this point. We have heard that in Pennsylvania and in Michigan practice can be taught in the law schools, and that in New York it cannot be so taught. We find that due, perhaps, to the fact, as has been stated, that the statutes change so quickly that the professors of practice do not keep up with the latest forms of practice. It seems to me that anyone could pick up the reports of the trial courts of New York, so large a part of which is devoted to practice, and get the names of half a dozen vigorous young gentlemen, and justice to the race requires that it should be said of them that they are of Hebrew extraction, who, if they were engaged as professors of practice, could give valuable instruction upon the subject of pleading and practice; it would be more practical, and, I venture to say, that there would be no lectures delivered during the course which would secure more earnest attention on the part of the students. It seems to me that the difficulties in teaching practice in the law schools have been exaggerated, and that the opportunities for admission of students into law offices in the large cities are by no means so rose-colored as to induce the law schools to turn that branch of instruction over to the practitioners. It does seem to me that practice can be learned, just as so many law professors say it can be, in the law colleges.

J. Newton Fiero, of New York:

Mr. Chairman, we have entered on a very interesting discussion which I think most of the members believe to be very important. The hour is late, and I understand that there is no specific business set for Friday afternoon, and I suggest that the further consideration of this subject be postponed until that time.

Lucilius A. Emery, of Maine:

I want to say, Mr. Chairman, that we have in my state a little law school that does teach practice. I am speaking now from the standpoint of a judge of the Supreme Court of that state and as a friend of that law school. I can say that at the end of their course in the study of practice in that school some of the students are better practitioners than those men who came to the Bar directly from the office and without ever having been in a law school. Practice is taught and pleading is taught, and my only purpose in rising now was to testify to the fact that not only can it be done, but that it is done and done thoroughly.

Henry H. Ingersoll, of Tennessee:

I do not think the suggestion is a good one to adjourn this discussion over until Friday afternoon, because if that course is followed no discussion will take place, as we shall then be in a condition of dissolution.

The Chairman:

Was the suggestion of the gentleman from New York to postpone the discussion until Friday afternoon seconded.

Lucilius A. Emery:

I second it.

The motion was lost.

The Chairman:

We will, therefore, continue the discussion now.

Elliott J. Northrup, of Illinois:

In addition to the states that have been mentioned where practice is taught I wish to add Illinois. We are teaching practice there in the law school and with success. The work is under the personal direction of the dean of the school, who has had many years' experience on the bench, and he is very successful in the teaching. I believe from what I have seen of the work, and from my own experience in an office where I studied both before and after I went to the law school, and from the general experience of students in law offices that the

work that the students are getting in practice is more thorough and more systematic and more nearly covers the whole ground than any work or instruction that a student gets in an office except under very rare conditions. Facts on hypothetical cases are given to students; attorneys are selected on each side, and they go through the entire procedure followed in a court in the litigation of that case, preparing their papers on motions, and so on. Those papers are criticised in the class by the instructor, and that class work develops into discussions by the students on each side, which in itself has the result of thoroughly instructing them. I think it is the experience of practically everyone here that nothing of that kind comes to the student in the law office. The busy practitioner who has a practice making it worth while for a student to enter his office is not going to take the time necessary carefully to discuss with the student the papers that he has asked the student to prepare for him. I do not discuss the question whether or not more time is needed in the law schools to teach practice. It may be that three years is little enough time for the teaching of the subjects that must be taught. Of course, we are not doing as much in Illinois as we should if we had more time to devote to it, but I do protest against the idea which has been broached here this afternoon that practice cannot be taught in the law schools and that it must be taught in the law office. If it is advisable to add another year in addition to the three years now required to be devoted to the study of law for the purpose of learning practice, let us have it. But I think it would be most unfortunate to allow the idea to go forth that we do not think that that additional year could be wisely employed in the law school. The work can surely be done in the law school more advantageously than in the law office.

William P. Rogers, of Ohio:

I desire to say a word in reference to what seems to me to be the most important point presented in the papers this afternoon. The question is this, if it is desirable that there shall

be a higher preliminary education, why is it that the law schools do not raise the educational requirements? It seems to me the question is a very proper and pertinent one, and that there has so far been no answer given which fully meets it. The answer given by Professor Brewster may apply to Michigan, but it does not apply to all the other schools. There is a reason for not raising the standard to a completed collegiate education or to a two years' course in a college or university. There is not only a reason for this, but there must be a very good reason, else the present situation would not exist. There is no one here, I imagine, who does not agree with the sentiments expressed in the paper of the Chairman, that it is desirable to have a higher standard of education in the law schools. What then is the reason for maintaining the lower standard? I think it may be found in this, that if the law schools should refuse to admit applicants for membership until after they had secured a college education, many of the applicants would go to the so-called fake schools which have been so universally condemned by the speakers, or they would go to that other source of legal education, the lawyers' offices. In neither of those places is there required even the preliminary requisite of a high school course. Whether the reason is valid or not, I think it is found here. I do not say it is valid, I only suggest that it is the cause for maintaining a low standard. If I am right about this, what then is the remedy? The remedy, it seems to me, is not one which can be applied by the law schools, but is rather with the legislatures and the law examiners. If a young man may enter a lawyer's office and there prepare himself for the Bar without any preliminary education, and from there be admitted to the Bar, or if he may attend the inferior law schools without any preliminary requirements, undoubtedly the better schools would be put to great disadvantage if they placed the standard so high as to drive the students they have to these inferior places for legal training. I speak of facts sustained, I believe, by figures. At the last Bar examination held in Ohio there were over two

hundred applicants; not all of these came from the law schools; one-third of that number, at least, had never entered any law school. Yet they were accepted as applicants for admission to the Bar, and the majority of them passed the examination and are now members of the Bar of Ohio.

It occurs to me, therefore, that the argument presented in the Chairman's paper should be directed not so much to the law schools, but rather to the legislatures and the Bar examiners. Let the standard for admission to the Bar be placed higher and the standard for admission to the law schools will rapidly follow. I believe that law school men are generally now in favor of a higher educational standard, and that when the legislatures give the examiners power to elevate the standard for admission to the Bar, and when the examiners exercise this power by placing high the standard for admission, that the schools will at once elevate the standard for admission there as high as it can well be made.

Andrew A. Bruce, of North Dakota:

There is still another reason, but perhaps the same conclusion follows. I come from a state which is in the process of development; from a state where we get close to the people and close to the foundations of government. I find in my state, on consulting the farmers and the taxpayers generally who support our law school, for ours is a state institution, that the reason they support and believe in legal education is because in a republic every man is presumed to know the law and every citizen is presumed to take a part in its making and administration, and to have something to do with the upbuilding of the commonwealth in which he lives. I find this idea expressed by the Norwegians, by the Icelanders, and by our other immigrants, all of whom take a keen interest in American institutions. When they come to us and see that in the public schools of the state one can learn physiology if he wants to, can learn French or German or botany if he wants to, and will be admitted to the schools without any preparatory education, and then is told that if he wants to learn the great

principles which govern and control the state, the great rules which organized society has chosen to regulate and to guide its evolution, the right will be denied until he first has obtained a collegiate education, it seems to him that a thrust is made at the very foundations of government and of intelligent citizenship. His conclusion in this respect appears to me to be unanswerable. Yet the solution of the problem has been suggested by some of the papers read here today. It is to be found in the fact that there is a wide difference between the right to a legal education and the right to admission to the Bar. It is perfectly competent for the state to say that while anyone may learn the law who desires, he who desires to practice at the Bar shall first show evidence of certain requisite qualifications. In other words, the state may well provide that if one wishes to study law for the purposes of intelligent citizenship, he need have no preliminary training and the state law school will be open to him, but that before he will be admitted to practice law he must show that he has a collegiate degree and is in addition a graduate of a reputable law school. In addition to this I think the solution of the problem lies largely in the hands of the Bar examiners of the several states. When we get the Bar examiners really to do their duty and to scrutinize properly the qualifications and moral fitness of every applicant for admission to the Bar, whether he comes from a law school or not, and especially do we need a scrutiny of those who do not, then we shall have gone a long way in the direction of a higher standard of legal education.

William Righter Fisher, of Pennsylvania:

I want to say a word by way of defense of the so-called fake law schools, and upon one or two other topics which have been discussed here. It seems to me that Mr. Alexander in his paper struck something which approached very nearly to an acute note when he said that there was this difference between the man who was aspiring to become a practicing lawyer and the man who was simply pursuing the study of

law for the purpose of general education. It seems to me that in any system which is going to keep from the active ranks of the profession the men who are not properly qualified, either for their own interests or for the interests of the community, to secure admission to the Bar, the test must be made, whether it can be made satisfactorily in all respects or not, by your Boards of Law Examiners. I am connected with the State Board of Law Examiners in Pennsylvania. We have a preliminary examination which, without exception, every gentleman connected with the board deems to be of vastly greater importance than the final examination for admission to the Bar. It is important because by means of it a man in the futile pursuit of a profession for which he has no qualifications is stopped at the very threshold of the work. That is an inestimable benefit to him, because any young man who starts out to qualify himself for the practice of an arduous profession such as the law and is not capable of passing a preliminary examination is, of course, benefited by being stopped and told that he cannot go on. Whether the standard is set high enough in our state or not, I am not here to say. It is set as high as the Board of Examiners think practical conditions will permit. In the State of Pennsylvania, by the rule of the Supreme Court under which the State Board of Law Examiners was created, every man, whether he be a college graduate or not, is required to pass this preliminary examination. That feature of the rule, I confess, when it was first brought to my attention, did not meet my approval, but today it does, and I believe it is a rule which ought to exist in every state. I think it puts upon their mettle, so to speak, those institutions who fail to do their duty in many instances to the young men, and it also stimulates the young men because they know that sooner or later they must confront an examination, not by the professors who have instructed them along particular lines, but by a board of practical examiners who are going to examine them upon broad lines to test their legal qualifications. It seems to me that right there is the

place to set up your first barrier to admission, that the men must pass an adequate preliminary examination to test their general intelligence, on broad and comprehensive lines, in such a way as to convince a body of practical sympathetic men—I do not mean mere perfunctory examiners—that it is advisable for those young men to be registered as students of law. Our second barrier is the final examination, of course.

The Chairman:

Is the first examination oral or written?

William Righter Fisher:

It is written, and the students are allowed sixteen hours for it. The examination is purely impersonal. A great many college graduates have been turned down in that preliminary examination. Their names were not known to the examiners at all; each man was simply given a number and each paper was considered by the examiners entirely by number. I may say that graduates of Yale and of other prominent universities in this country have failed to pass this preliminary examination. It has sometimes been said that such an examination should not be required. Why should it not be required? If a young man has had the advantages of a university education and cannot pass a preliminary examination upon broad lines, taking in English literature, history and cognate branches, why should he be favored as against a young man who has not had such advantages? So I say with reference to the fake law schools. I say it has struck rather an unpleasant note to hear some things which have been said about fake law schools. I believe in the best education a man can possibly attain, but I believe in his seeking whatever source of information is at his command. I am not one of those who believe that the great educational institutions always give the best instruction, because, unfortunately, they are often manned by men who are performing their duties as instructors in a perfunctory way. Education, if it is going to be of any good, must be largely a matter of personal instruction. Why should a young man, who cannot for various reasons attend a university, who

cannot give his whole time to a course in an educational institution, be shut out from the courses of instruction that are open to him, even if it be a Young Men's Christian Association law school or any other kind of a law school? Many of the so-called fake schools are started purely for mercenary purposes, yet the men who start them even for that purpose must make them thorough-going schools. Of course, there is a great deal of fragmentary and inefficient education, but if a young man, who is availing himself of the best opportunity that is open to him, can come before a properly constituted board of examiners and can show himself superior to the graduates of a great many law schools, why should he be discriminated against? In Pennsylvania it is required, under the rule of the Supreme Court, that every application for registration as a student at law must pass the preliminary examination. He must then be registered in the prothonotary's office of the Supreme Court. He must then pursue his studies for three years either in a law school, in which the hours of work are defined in the rule, or he must pursue it in a lawyer's office as a regular clerk, or partly in the law school and partly in the law office. But why shouldn't he seek assistance and why shouldn't he obtain it from any available institution which will give him the instruction if he cannot get it in an accredited law school? There is a very good law school connected with a Baptist Church in the city of Philadelphia, and I know some young men who have gone there and obtained a pretty fair legal education—

Lucien H. Alexander, of Pennsylvania:

Plus the law office?

William Righter Fisher:

Plus the law office, undoubtedly, and the dean of that law school came before our board not more than six months ago seeking to have that school placed upon the same basis as the Law School of the University of Pennsylvania or the Pittsburgh Law School or the Carlisle School. I said to him, "It is an advantage to your student to be required to seek an alli-

ance with a lawyer's office, and you ought to recognize that." Do not let us favor a monopoly in legal education. I am removed from all sources of demagoguery, I hope, nevertheless I believe this is a country of freemen; and, as the gentleman who last spoke quoted the sentiment of the people of his state, who believe that where they are participants in the government of the state they ought to have an opportunity to become acquainted with its laws and to be educated along legal lines as well as anything else, so I believe. I think the place to set up your barrier is, first, in your preliminary examination, and then your second barrier in your final examination, upon broad comprehensive lines, so as to test the qualifications of every applicant for registration as a student and then for admission to the Bar.

Horace L. Wilgus, of Michigan:

I would like to say a few words in line with what the last two speakers have said, and in doing so I am quite likely to be charged with heresy in university work. I have been connected with university work substantially all my life, and I desire to say that my observation leads me to believe that the universities do not contain all the knowledge there is. There are sometimes found in university faculties people who are somewhat similar to the definition that a man once gave who was illiterate, but who sometimes told a great deal more truth than was suspected. He was asked to define a minister, and he made an effort to do so. Then he was asked to define a donkey, and he defined it in this fashion: A kind of animal that is sometimes found in theological gardens. I sometimes think that there are men in university faculties who are really not doing the work they might do, and that there are people outside from whom one can learn things that are as valuable to him as sitting at the feet of some members of faculties. In other words, studying law or anything else in school or college is not the only way of learning the subject studied. But on the whole I agree with what Mr. Rogers and Mr. Bruce have said, that the law faculties are attempting to do very excellent

work and are interested as much as it is possible to be in raising the standard of legal education. The last two speakers said something upon this point, and it seems to me we are all the time confusing two things. The right to study is the individual right of every man; it does not depend upon the consent of anybody. The right to study anything in a state university supported by the people of the state ought to be as much of a right as a right to do anything else. The right to be admitted to the Bar has never been considered as a right at all under the common law, but as a privilege conferred by the state. The state can say what shall be the conditions of admission to the Bar. The state ought to say what shall be the conditions of admission. The state ought to have a board to examine everybody that is to be admitted to the Bar. I do not believe in admitting any man that is a college graduate, or who has been inside or outside of the college, simply because he has been to one place or the other. The question should be, How much law does he know? It is difficult to fix tests that will be accurate on all occasions, but you can fix your test by appointing a commission to examine applicants for admission to the Bar; you can also fix a preliminary education test; make it high if you wish—and I believe it should be high—and then fix your qualifications for admission to the Bar, and make them as high as you choose, and enforce them by one body in the state so that they will be uniform throughout the state for every person. Let any man who wants to study law do so, in a university or in any school that he wishes, or in no school if he wishes. But if he wishes to practice, require him to pass these examinations; and if he can do this the community will be protected.

J. Newton Fiero, of New York:

I desire to express my admiration for and unqualified commendation of Mr. Alexander's paper in so far as it states that the study of practice and pleading in the law school is an absolute dead failure. I had hoped to have an opportunity to dis-

cuss the matter at some length, but as our time is limited I will content myself with this expression of my views.

Henry H. Ingersoll, of Tennessee:

I wish to say, as a member of the American Bar Association and in support of what has been said by several gentlemen here, that I believe the only test for admission to the Bar is that which the state itself should prescribe. It should make it uniform; it should make it through state examiners, and those examiners should be appointed by the court of last resort in the state. I do not believe any artificial standard should be erected either for admission to the Bar or, for that matter, for admission to the law school. There ought to be substantial standards for either or for both. I heard our friend from Pennsylvania say that he wished to say something in favor of the fake law schools, but I did not observe that he defined what a fake law school was, and I do not think he ever saw one.

William Righter Fisher, of Pennsylvania:

Oh, yes, I have, sir.

Henry H. Ingersoll:

Let me describe to my friend one of them. This is one that existed in our state. It was organized by a single person under a charter obtained from the state in pursuance of a general law, in which the president was the mother-in-law of the incorporator-in-chief and where half a dozen men unknown to the members of the Bar and to the community generally composed the faculty; where the degree of LL. D. was conferred without a single hour's attendance upon the school; where men simply wrote requests from a distance for a degree, and where the institution, upon receipt of the requisite fees as fixed by the incorporator, gave the degree. In the state at that time there existed a law authorizing any person possessing the degree of LL. D. from any law school in the state to be admitted to the Bar. Now that is a fake law school according to our understanding. We have all sorts of law schools in America, and I repeat that I do not think my friend from

Pennsylvania ever saw one in his state like the one I have described. In a state where they have no Board of Examiners, with a statute which permits any person holding a degree from such an institution to be admitted to the Bar, we have persons admitted to practice of a character such as I will instance: A man about thirty years of age came to me one day and said, "Judge, I want to study law in your office." I replied that I did not take law students into my office. He said, "So I understand, but I want to go to the law school in the university." I said that the term did not begin until September; this was early in the spring. He said "I know that too, but I want to get ready to study law." I said, "Have you ever studied history?" He said, "No." I said, "Let us go down to the book store and get some books." "All right," he said. "You know, Judge, father is dead now, and I have plenty of money and lots of spare time on my hands, and I want to be a lawyer." We went to a book store and I bought for him a history of the United States and a history of England of the high school kind. He took the books and thanked me, and went away. From that day he has never been in my law office nor has he been at the law school of the university. That was about the first of March. Sometime in May I opened the morning paper and I was astounded to find an item stating that that man had been admitted to practice law in the courts of Tennessee, four months before the time when, by his own confession, he was ready to begin the study of law. Now that is what can happen in a state where there is no uniformity of standards and no board of law examiners, where two circuit judges, or two chancellors, or the faculty of any law school may license a person to practice law.

I am happy to say that in the last three years we have changed all that in our state, and those of us who, as law professors, had the power to license have, after ten years' effort, succeeded in getting the legislature to take the power away from us and confer it solely upon the Supreme Court. Through that tribunal we have erected a uniform standard now.

What shall be the qualification in any particular state we, as representatives of the American Bar Association, cannot say. Of course we cannot have a standard higher than that which the Supreme Court of the state sees fit to prescribe. Whatever is satisfactory to them must be so to us, and when we have a board of examiners appointed by the Supreme Court of the state then we have that which is the best attainable in any state.

The influence of this Section of the American Bar Association in behalf of legal education and admission to the Bar in the last ten or twelve years has been wonderful; modern standards of a high class have been erected and higher still are sought. But there is a possibility on the part of those who are simply professors of law of attempting to attain to nominal standards which are too high. I am in entire sympathy with the remarks of the gentleman from Pennsylvania as to where a man may study law and as to how he shall be admitted. My friend from North Dakota has properly expressed the view we have adopted in Tennessee, which is that any man who can pass the requisite examination, whether he goes to a law school or not, and who can prove to the satisfaction of the Bar examiners that he possesses the requisite qualifications, may be admitted to the practice of law. There are, as those of us know too well who have been through college, many college graduates who ought never to attempt to study law, much less to practice it; and such men had better leave law alone and apply themselves to some other vocation.

Andrew A. Bruce, of North Dakota:

I hardly went so far as the gentleman from Tennessee seems to think I did in what I said. My statement was that I believe every man should have the right to study law, but that proper restrictions should be placed around the man who wished to be admitted to the Bar.

William Righter Fisher, of Pennsylvania:

I hope that no gentleman here thinks I am posing as an apologist for fraudulent educational institutions or that I wish

to take up arms in behalf of any of the fake law schools in Philadelphia that have sold degrees. I utterly despise them. I am afraid what I said in reference to the graduates of Yale and other universities may have been misunderstood. I simply instanced the fact that a graduate of Yale University—not of the Yale Law School—had failed to pass the preliminary examination before our State Board of Law Examiners. I make this statement because I have a very high regard for the Yale Law School, and what I said was not intended to cast any aspersion upon its graduates who had applied to our board to be examined.

Lucien H. Alexander, of Pennsylvania:

My remarks will be brief. The Pennsylvania preliminary examination requirements, referred to by my friend, Mr. Fisher, I did not discuss in my paper; but as he has stated on this floor that men desirous of studying law in Pennsylvania must first pass the preliminary examination of the State Board of Law Examiners irrespective of whether or not they hold collegiate degrees which stand in the world of letters for a broad, general education, I desire to say as a matter of state pride that there are many members of the Pennsylvania Bar, who, while believing in the highest educational standards, do not approve of and are unalterably opposed to the regulation compelling the holders of collegiate academic degrees to submit to an examination in rudimentary subjects, such as arithmetic, geography and things of that sort, the *minutiæ* of which are so soon forgotten. If the Pennsylvania Board has turned down, as stated here today, graduates of Yale and other institutions merely because they have failed to pass examinations in such subjects, I deem it a disgrace to the Pennsylvania Board, but not to these institutions, for it presupposes that the examination has convinced the board that these men have not received a sufficiently good general education to entitle them to commence the study of law. A system which makes possible the rejection of a Yale academic graduate on these grounds is seriously at fault somewhere. Education, it seems to me, is

much more than information, and all that an examination can do is to test a man's present information. Often an examination is the only possible test, but sometimes there is a better. I believe at least a majority of the Justices of the Supreme Court of Pennsylvania are not in favor of the extraordinary regulation referred to, one that was suggested by the board and adopted three years ago more as an experiment than anything else, and that its amendment is but a question of time.

For more than half a century we have had in Pennsylvania a system which has distinguished between admission to the Bar, which is not a right, and the right to study law. This is by a system of registration in the prothonotary's office of all students of law who desire to be admitted to the Bar, and the time of clerkship or period of study in a law school is allowed to be computed only from the date of such registration. More than sixty years ago the court required that every man who desired to take up the study of law, under the supervision of the court and by its authority with the object in view of subsequently being admitted to the Bar, must be registered as a student in the prothonotary's office, and he could not be so registered until he had passed an examination showing that he possessed a good English education. From time to time the standard has been raised, first, to the equivalent of a high school course, which was almost equal to completing the first year in the average American college, and now it is at least that high by the rule of the Supreme Court. This system fixes the candidate's status as an officially recognized student at law, just as the final examination if successfully passed and followed by admission to the Bar fixes his status as an attorney and counselor at law.

The main thought I would leave with you today in connection with the law school problem is this: We must distinguish those who study law merely to secure a legal education and who have no intention of becoming active *bona fide* practitioners from those who are seeking thorough knowledge of law

that they may devote their lives to the practice of our profession, and I repeat that I believe that even the leading law schools are a menace to the profession of the law so long as they fail to make this distinction, as make it sooner or later they must. Those desirous merely of a legal education require no technical knowledge of practice and procedure, but the men seeking call to the Bar must have it sooner or later if they are to be successful, and boards of examiners should see to it that they have it, have at least a thorough working knowledge of it before admission.

The Chairman:

I think it is necessary for us to understand that neither the Pennsylvania Board, nor any other board, can compete with the professional coach in undertaking to set up standards for the general education or for admission to the Bar. I can furnish a professional coach who will take a man not educated at all and make that man pass at his first examination. That professional coach makes a study of the questions; he makes a study of the examiners; and you cannot possibly get up questions that will cover a three years' course which he cannot predicate with sufficient closeness to train a man so that he can pass the examination. I know a coach in Cincinnati who can train a man to pass the examination, questions or problems. He will study the examiners and he will know the character of the men and the trend of their minds, and there will be a certain family resemblance, as it were, between the questions that an examiner puts on any subject in a two or three years' course. Bar examiners who suppose that they can make their examinations on paper, either in general education or in law, a substitute for the knowledge that a man gets during a certain number of years under competent instruction, will find they are woefully mistaken. Two years ago I had the honor to present this subject before the Association, and in my address you will find recounted the experiments that Lord Chief Justice Russell of England made. He stated that he found that in the Bar examinations of England,

which are supposed to be very strict, professional coaches had managed so that they could take a man of ordinary memory and in less than three months he could pass the examination. What the man knew was not anything about law, but he accomplished the result through a system of mnemonics and he could remember a certain line just long enough to pass the examination. There is a man in Cambridge who carries on a most successful coaching business to fit men for examinations in the academic department of Harvard. He has a large corps of assistants and makes a lot of money out of it. He takes desperate cases, and of course charges more for them than for ordinary cases. I have the most reliable information that a man who acquitted himself with such distinction on the foot ball team at Harvard that he was not required to attend any lectures was able to pass an examination on one of the most important branches of applied science after having been in the hands of this coach for three days. So do not think, gentlemen, that you are going to overcome the evils of the fake law schools by relying upon any questions that a board of law examiners can lay down for any subject.

The motion made by Dean Rogers, of Connecticut, is now before you.

Henry H. Ingersoll, of Tennessee:

I move its adoption.

Lucien H. Alexander, of Pennsylvania:

I second it.

The motion was adopted.

The Chairman:

Is the Committee on Nominations ready to report?

J. Newton Fiero, of New York:

Mr. Chairman and gentlemen, the Committee on Nominations beg leave to report recommending the election of the following officers of the Section for the ensuing year:

For Chairman: William Draper Lewis, of Pennsylvania.

For Secretary: Charles M. Hepburn, of Ohio.

On motion, the report was adopted and the gentlemen named were declared elected officers of the Section for the ensuing year.

The Chairman:

A motion to adjourn is in order.

George M. Sharp, of Maryland:

I move that the Section adjourn.

The motion was seconded and adopted, and the Section adjourned *sine die.*

HARRY S. RICHARDS,
Secretary pro tempore.

CHAIRMAN'S ADDRESS.

BY

LAWRENCE MAXWELL, JR.,

OF THE CINCINNATI LAW SCHOOL.

The success which has attended the efforts of the American Bar Association to improve and extend the facilities for studying law in the United States, and to raise the standard of admission to the Bar, must be accepted as proof of the correctness of the principles which the Association has advocated and as evidence of the efficiency of the means which it has employed to win support for those principles. As one of those who have looked on while others have worked, I feel at liberty to say that the movement is regarded by the Bar as the most important and successful organized effort in the history of the profession in this country to improve the administration of justice. The Association had a definite aim and began at the right point. It dealt with no glittering generalities. It started with the simple proposition that the administration of law depends primarily upon the character and learning of those who practice law, and it set to work to see what could be done to provide better facilities for the education of applicants for admission to the Bar, and to induce them to make use of those facilities. In providing more and better means of education, through the establishment of new law schools and the improvement of the quality of the instruction and the term of study in the schools, new and old, and in securing general approval of the proposal to supplant desultory study in offices by systematic study in schools, the efforts of the Association have been remarkably successful. What might have been the present state of legal education in the United States but for the organized work of this Association I will not undertake to say. Some schools would doubtless have

improved their methods and lengthened their courses, and their example would have been followed by others from time to time, but it cannot be denied that the progress of the most favored schools has been accelerated, and that the development of others has depended in still larger degree upon the stimulus which this Association has supplied.

The success of the efforts of the Association outside of the schools in enforcing standards of admission to the Bar has not been quite so marked. The general result, taking everything together, has, however, been gratifying. The number of law schools in the United States has been increased from forty-three to about a hundred and ten, or more than one hundred and fifty per cent., and in considerably more than one-half of them the course of study now occupies three years, and in nearly one-half a high school education or more is required for admission, whereas, when this Association was formed in 1880, only seven of the forty-three schools then in existence had a three years' course and a still less number enforced any substantial requirement for admission. It was not until 1875 that any of the law schools subjected applicants for admission to examination, or prescribed any definite or substantial condition of preliminary education.

In twenty-five states admission to the Bar is now placed in the hands of State Boards of Examiners, acting more or less rigidly in enforcing standards which are becoming more definite and significant. While this is an important step in the right direction, its value consists more in the opportunity which it affords and the prospect which it holds out of securing higher standards of admission to the Bar than in what has already been accomplished, for it must be admitted that the law schools, in the training which they are prepared to furnish, are much in advance of the states in the conditions which they impose for admission to the Bar, and that the problem of the schools would be much simplified if the states were to bring up their standards to those of the schools.

With the arrangements that have been made for national

meetings of Bar examiners and of representatives of associated law schools in connection with the annual sessions of the American Bar Association and of the Section of Legal Education, the equipment for successful prosecution of the work that is before us seems to be well organized.

While much has been accomplished, much remains to be done. In many states there is no standard for admission to the Bar, and in others the standards prescribed on paper are not enforced. One-half of the law schools in the United States do not require even a high school education for admission. Twenty-five per cent. of them require considerably less and twenty-five per cent. require nothing at all. What can we do to improve these conditions? I regard this problem as the most important before the Association, and with your permission I propose to consider it from the standpoint of a practicing lawyer rather from that of a teacher of law. The discussion of methods of teaching and study and of problems of administration, while of undoubted value to all members of the Section, is of less interest than the main question to the Bar and to those teachers who are confronted directly with conditions which affect the very existence of their schools. The collection and publication of statistics bearing upon the condition of the schools and upon the state of legal education in the United States is also a most important function of the Association since it furnishes us with data whereby we are enabled to draw conclusions and urge reforms based on actual states of things. But all these services shrink in comparison with the supremely urgent and important duty of the Association to secure the enforcement of proper standards for admission to the Bar, the enlargement of the course of professional study in all schools to three years, adequate preliminary education on the part of those who undertake to study law and the suppression of fake schools.

No one realizes the necessity for improved conditions better than the lawyer who is brought into daily contact with the work of the courts. I remember to have heard a justice of

the Supreme Court of the United States say in an address before this Association within the past ten years that it would be a blessing to the profession, and to the community as well, if a deluge would engulf one-half of those who have a license to practice law. He had exceptional opportunities for knowing, having been a state judge for many years before his appointment to the Supreme Court of the United States, and also for several years a circuit judge of the United States in a judicial circuit which includes eleven states and two territories. His opinion is naturally entitled to great weight on account of the unusual extent of his observations as well as his distinguished position. Not long ago I asked a judge of the Supreme Court of one of the largest and most populous states, and one of the most important from a commercial standpoint, why his court did not encourage oral arguments? His answer was that the court would gladly avail themselves of the assistance of oral arguments if they could select the lawyers to make the arguments, but that in the majority of cases they found oral arguments a waste of time. If these are just observations with respect to the presentation of cases deemed of sufficient importance to be taken to the Supreme Court, with the opportunity which a final appeal with printed records gives for preparation, what must be the ordinary course of business in *nisi prius* courts? What sort of a learned profession is it a majority or any considerable part of whose members have not sufficient command of the English language, or comprehension of their subject, or logical faculty, to be able to present the questions in a case which has reached the court of last resort in a clear and orderly way? The records show too many judgments reversed on account of errors in procedure, too many cases brought without merit or defended without justification, and miscarriages of justice innumerable through ignorance and mismanagement.

This condition of affairs is the natural result of a long course of indifference in this country to the proper requirements for admission to the Bar. We have had great lawyers who have

worthily adorned the profession, but the administration of law on the whole has been slow and bungling and expensive. The cost to the public in most states through mistrials, waste of time, the employment in unnecessary numbers of judges, jurors and court officers, due to the inadequate training of judges and lawyers, would justify the education of the Bar at the public expense. I think it could be shown by figures that it would cost many communities less to pay directly the entire expense of educating a sufficient number of lawyers to manage the legal business of the community than to bear the indirect cost imposed upon it by reason of the bungling and wasteful way in which the business is done by those who are not qualified, to say nothing of the private losses and suffering of the unfortunate litigants who fall into their hands, for the most part people with small means and a single case without the knowledge and experience which enables men of affairs to select competent counsel.

It is easy enough to state the remedy for this maladministration of justice, for we know the cause. We know that it is due to incompetence, and that the law can be administered with reasonable certainty, economy and dispatch, for we have seen it done in other countries, if those who are entrusted with the work are properly trained for their business. We are banded together in this Association to see that certain conditions absolutely essential to that end shall be brought about. We are not treading upon uncertain ground, or advancing fanciful propositions, or discussing theoretical views, or urging impracticable schemes. We are dealing in a practical way with a practical subject which concerns the public quite as much as the profession, for it relates to the administration of law for practical people who have money and property at stake which they are deeply concerned in protecting, or whose life or liberty is or may be in jeopardy. There is no concern of men which does not fall within the dominion of the law, and no citizen knows at what moment its just administration may seriously affect him. They are all therefore interested as citi-

zens and taxpayers, if no less selfish view appeals to them, in the success of our efforts to bring about improved conditions.

What we propose is not indefinite. We cannot make Daniel Websters or Rufus Choates out of every young man who aspires to be a lawyer, but we can stop general incompetence at the Bar and raise its moral tone, if our recommendations are followed. Those recommendations are, first, education, second, education, and third, education; education of the mind to the point of power and maturity necessary to enable it to grapple with the complicated questions of the law; education in the doctrines of the law itself which cannot be dreamed or imagined, but must be learned; and education of the soul to an appreciation of the divine principles of justice which underlie all law. The law is not food for infants or work for children. It is for those only who have the mental and moral stature of a man. I am not now concerned with the question whether proper preparation requires two years or four at college, but with the supreme importance of adequate preparation. It must be a preparation which has not only stored the mind of the student with knowledge of facts, but has developed in it the faculty of seeing facts as they are without distortion of prejudice and of reasoning from them in accordance with the dictates of sound judgment. These are the qualities which distinguish the educated man from the uneducated. The fruit of liberal education, as has been justly observed, is not learning alone, but the capacity and desire to learn. Carlyle, who was no blind follower of the schoolmen, acknowledged the omnipotence of early culture whereby, to use his words, instead of a "doddered dwarf bush, we get a high-towering, wide-spreading tree"; and it was Webster who suggested that the greatest of all the warriors who went to the siege of Troy had not the pre-eminence because nature had given him the strength and he carried the largest bow, but because discipline had taught him how to bend it. Few men are wise by their own counsel or learned by their own teaching. As Ben Jonson quaintly observed, "He that was only taught by himself had a fool to his master."

I have said this much upon the trite subject of the preliminary education of the lawyer, because there seems to be an undertone of doubt, even in the Association, not with respect to its importance, but as to the practicability of insisting upon higher standards. At the last meeting one of our members, distinguished for his long service in the cause of legal education, thought that it was a mistake to concentrate so much of importance upon preliminary education, and he considered it impossible at present to bring up the West to the point of requiring a college degree or two years of a college course, and he urged that the Association take no step in advance on that subject. The Committee on Legal Education, in its very interesting report made in 1903, while reaching the conclusion that two years of a college course was the least that should be required as an adequate preparation for the study of the law, expressed the opinion that it was impracticable to secure the adoption of that standard at the present time. Why is it impracticable, and when will it be practicable, if not now? How long are we to wait in this country, rich in natural resources, leading the world in manufacture and commerce and invention, advancing in art, with universities supplied by public grant and private endowment, brought almost to the door of every aspiring young man, before it will be practicable to insist that the members of a learned profession shall be learned? How can the Bar of the West offer such a plea? Are they content with standards inferior to those of the East? What have they to say of the declaration of the fathers in the ordinance of 1787, organizing the territory northwest of the Ohio River, that knowledge as well as religion and morality are necessary to good government and to the happiness of mankind, and that schools and the means of education shall forever be encouraged, and what account will they render of the grants made by Congress to establish colleges in the great states of the West, and of the large and increasing contributions raised by public taxation for the purpose of maintaining them? With these means of education provided by the state

at public expense and for the public good, how can applicants for admission to the Bar expect that they will be permitted by the state to assume the serious and responsible duties of a profession which deeply concerns and vitally affects the interests of the state without proper preparation? If the colleges provided by the state are not for the training of those to whom she entrusts the administration of her law, for whom were they intended and of what use are they?

If two years of a college course, or something else more than a high school course, is the least that should be required as an adequate preparation for the study of law, as the Committee on Legal Education has recommended, why should we not advocate that standard now and use our influence to have it adopted without further delay by as many schools as possible. That would seem to be the practical thing to do. There appears to be no good reason for not adopting it at once in the law schools of the flourishing state universities of the West. Each practical application of a higher standard helps the cause. The example of these universities, already set by the law schools of the Ohio State University and the University of Wisconsin, would be followed in time by other schools supposed to be less fortunately situated. We shall accomplish nothing unless we aim high and urge what we believe to be right, and not merely what some suppose to be practicable. Our success in inducing so large a proportion of the schools to increase their courses to three years and to raise their requirements for admission from nothing to a high school education, should encourage us to believe that if we do not stand still, but press forward, we shall find the Bar and the public more disposed to support us than we think. I believe that the great body of the profession is deeply interested in improving its condition, and that public sentiment can be easily awakened if we carry on a campaign of education and show, as we can, that what we propose is for the best interests of the public. The best is none too good for America, and we shall not long be content to be behind the most favored nation in the administration of law.

The importance of the moral tone of the profession, and of the steps which will promote it, is likely to appeal to the public even more forcibly than its learning or technical skill. I do not refer to the stealing of money, the subornation of witnesses, the forgery of records or other penitentiary forms of misconduct, but to the moral sensibility which does not stir up litigation, or defend against clear claims without justification, or give pernicious advice knowingly, or assist in illegal transactions, or abuse the confidence of the courts; in other words, to the quality which we summarize when we refer to a lawyer as an honorable practitioner. One of the services of the colleges and one of the most important results of the association of young men together in the colleges is to develop that quality. It is usually the attribute of an educated man. We have not discovered any experience which knocks off the rough edges of habit or practice or nourishes the moral stamina of a young man more effectively or promptly than membership in that form of pure democracy known as a college class. Its atmosphere is not conducive to either freshness or crookedness. It is only natural, therefore, that we should find the moral tone of the Bar rising with the standards for admission. In 1898 Judge Danaher, of the New York State Board of Law Examiners, said to this Association that, according to his observation, the standard of preliminary education which that state had adopted had been productive of wonderful results in elevating the tone of the profession, and that from his experience he would rather abolish examinations in law than dispense with a high standard of general education.

We hear no dissent from these estimates of the value of liberal education. Everybody admits that it is a good thing, but many are nevertheless not prepared to insist upon more than a high school education either for admission to the Bar or to the schools. According to my observation and experience, that is a standard much too low for us to be content with in the United States. Young men at the age at which they ordinarily graduate from high schools (from sixteen to eighteen)

are not sufficiently mature or mentally equipped to commence the study of law with advantage. They lose time by attempting it, and frequently wreck their professional career because they get no adequate conception of what they study in the law school.

The objection most frequently urged against prescribing a higher standard of general education for admission to the Bar takes the form of a plea for the poor young man. That has always struck me as a curious argument in a democracy. Are we to have one standard for poor men and another standard for rich men? Are the state boards to prepare one set of papers for the sons of rich men and another for the sons of the poor? or shall the papers call for a specification of the wealth of the applicant or his father and be marked accordingly? If the argument is good, it applies to the applicant's study of the law as well as to his general education. If considerations of personal hardship or convenience are to be taken into account, where are you going to draw the line? The short answer is that such considerations have no place in determining whether a franchise affecting the public welfare shall be granted. The state is not concerned with the fortune of the individual when it comes into conflict with the general good. The inquiry should be confined to the capacity of the applicant to serve the state. Law is not administered as private philanthropy, but as the supreme interest of the state. The office of a lawyer is not a private business, but a public trust.

As matter of fact, the plea for the poor young man, while made in his name, is not made on his behalf or in his true interest. He does not wish to be handicapped in the race, and of all others can least afford to be, by inadequate preparation. Ordinarily he is not. He asks no favors. If he has the right stuff in him, he finds ways and means to secure the proper education.

It is also said that if higher standards of general education are required it will tend to make the profession a place for the sons of rich men only. This prediction is justified by no

experience and is answered by history. For generations the Scotch and English Bars have been composed almost exclusively of university men without developing the slightest tendency to create an odious caste or to raise an aristocracy except of brains. The law is the last vocation in the world to attract a rich man. It is too laborious and wearing. If I were rich, I think I should look for an easier job.

I could count on the fingers of one hand the college educated members of the Bar of Ohio who are the sons of rich men. A far greater proportion are the sons of artisans and farmers and teachers and preachers, and as a rule everywhere in the United States they are the sons of men of humble or moderate means. Call the roll of this meeting. How many of those who have prepared themselves for the Bar by a course at college are the sons of rich men? Call the roll of the eminent lawyers of America; go to the colleges of the United States or to the universities of Scotland and say whether they are the abode of the rich, or that there is danger of raising an oligarchy of wealth if we recruit our profession from their ranks.

I am in sympathy with the objections that have been urged against postponing unduly the time when a young man shall commence his professional career and begin to earn a living, and to fixing arbitrarily the standard of a college degree for admission to the Bar or to the law school. It seems to me that Harvard Law School has dealt with this point in a very sensible and practical way. While admitting only holders of a degree as matter of right, she has wisely provided for the admission in special cases of men of more than average ability who have been prevented by straitened circumstances or other misfortune from getting a college education and are able to pass an examination in Latin, French and Blackstone.

Thorough preparation for the Bar is as much in the interest of the individual as the state. The young lawyer's career is largely affected and generally determined by his first performances. It is the impression he makes on the lawyers and

judges in his first cases and conferences that fix his place. The time for him to prepare is before the race begins.

The large increase in the number of law schools during the past twenty-five years has not been wholly in the interest of the public or for the good of the cause. Many have been started in communities where good schools exist in sufficient number for the express purpose of providing shady avenues to the Bar for those who wish to evade proper and reasonable requirements and whose only aim is to get a license to practice as quickly and cheaply as possible. Such schools are at war with the purposes of this Association and an injury to the cause. Some of them are so far below anything approximating a standard as to justify us in calling them bogus schools. They are a public evil. Ordinarily they are found in large cities, and sometimes under the patronage of well-meaning philanthropists who are not informed and who do not realize the injury they are doing to the young men themselves as well as to the community. More often they are organized for the money that can be made through the fees, small in amount, but considerable in the aggregate, which the promoters are able to get, principally out of clerks, officeholders, real estate brokers and detectives to whom they hold out, in true quack style, the prospect of attaining positions of eminence at the Bar or in politics if they devote a few hours in the evening to the so-called study of law. Abraham Lincoln is made to do full time in their advertisements with occasional reference to some local celebrity who has worked his way from the shop into Congress. Appropriate embellishments are not wanting of the glorious advantages of a free country and the dignity of labor.

We must not delude ourselves with the notion that Bar examinations protect the Bar against these fake schools. The Bar examiner is ordinarily no match for the professional coach. The only protection is to insist that every applicant for admission to the Bar shall have devoted a certain number of years under competent instruction wholly to the study of law, and after he has properly prepared himself to take up its study.

We are not likely to produce more brilliant advocates than Webster or Choate or Carter or Carpenter or Curtis, or more learned judges than Marshall and Story and Shaw and Gibson and Miller and Bradley and Matthews and Field, but the day of the haphazard lawyer, who depends on his imprejudicate instincts, is gone never to return, thanks in large measure to the work and influence of this Association.

ADDRESS OF THE PRESIDENT OF THE ASSOCIATION OF AMERICAN LAW SCHOOLS.

BY

NATHAN ABBOTT.

DEAN OF THE LAW SCHOOL OF THE LELAND STANFORD, JR., UNIVERSITY, CALIFORNIA.

The records of this Association have several subjects partially discussed. The purpose of this paper is briefly to recall some of them, without especial comment, but in the hope that those of sufficient interest may be discussed at this meeting, and that perhaps some action may be taken upon them.

COMITY AMONG LAW SCHOOLS.

The first topic I have called "Comity among Law Schools." By comity I do not mean merely an interchange of courtesies, but an interchange of students and teachers.

There are several influences tending towards such a unifying of our schools that this interchange is less difficult than might at first seem possible. This Association, the Section of Legal Education, the Association of State Bar Examiners, all are conscious and direct influences in such direction. The use of the same case books tends to like courses, time and methods of study. Similarities may be seen in schools using the text books and lecture methods. Perhaps the most potent unifying influence is that coming from the gradual differentiation of a body of teachers, giving all or substantially all of their time to law school work, and being actuated by a common ideal of what a law school ought to be.

An interchange of students among law schools would have a liberalizing tendency. It has long been exemplified in Germany and to some extent in this country. It easily lends itself to the peripatetic instincts of the American student.

There is a charm about it that blinds one to its dangers and difficulties. One of the best influences in a school is the loyalty of its students which creates a spirit resulting in a fine sense of honor and a devotion to study because of respect for the school and a determination that its output shall equal that of other schools. This not only is the product of time, but can act and react at the best only when the student body is comparatively permanent. A body of students shifting from time to time, having a divided allegiance would be likely to be lacking in this quality of loyalty to the school and respect for ideals. But a general exodus and exchange of students is not probable in this country, owing to the time and expense incident to it. Is it desirable to facilitate it? How far is it possible under existing or probable conditions for the good or the best students of one school to transfer to others and secure the advantages of work under instructors they especially select and on topics on which they especially wish instruction?

It is obvious that at present it is not possible to provide a unit of work that can be applicable to all schools and which shall be a medium of exchange entitling the student to credit in all. There is at present too much diversity of methods and equipment to render it possible to provide more than a rough equivalent for work done on the basis of which credit can be given. There is a natural feeling that inferior work which has been given full credit in one school should not qualify for a degree in a school which is more particular about the character than the number of its graduates. But the advantages from a wide range of choice are so many that it would seem the schools might facilitate such interchange of credits, the school finally conferring the degree requiring of the student at least a year's residence. And with an increase of knowledge of one another and as a result of these meetings it is likely the practice will increase.

The interchange of teachers, however, seems to be attended with fewer difficulties and more advantages. It would prob-

ably not be possible to exchange teacher for teacher unless their subjects were to be taught at the same time and for the same period. But such exchange might be an admirable thing for all concerned. The simplest application of the idea would occur when a teacher has a year's leave of absence. Such a teacher having his work well in hand could, while teaching, gain the advantage of study in good libraries with also the benefit of change of scene and influences, and would return to his own school not only stimulated by contact with the other school and its teachers, but with an addition to his scanty income as a law teacher. Again, specialists, as on Mining or Irrigation law, or on Patent law, who usually give short courses, if able to give courses in several schools could afford to take time to improve their courses and would also enlarge their influence by reaching a greater number of students. But best of all, schools with small incomes occasionally could raise a sum sufficient to induce the better if not the leading teachers to come and help to elevate the standards of the school. The influence of such teachers would be incalculable. The method used in establishing the University of Chicago Law School is a recent illustration of such an interchange of teachers on a generous scale.

Besides the benefit to the teacher there might be a gain to the school in respect to one point that is of more than passing importance. I refer to the teaching of local law to the prejudice of general law. This is a serious evil and much more common than would be supposed. Certain influences naturally tend in this direction. In some schools the majority, perhaps all, of the teaching staff is composed of practicing lawyers. Their familiarity with local law and lack of time for general study causes them to rely not only on local law for illustrations, but to make it the end of teaching. This practice is also encouraged where the appellate court prefers its attorneys should cite only the decisions of the state court. Another potent influence is the making the requirements of the Bar examination the standard of efficient work in the school. In

some cities having several schools, one of them may depend largely for its patronage upon success in preparing its students so that they can pass the Bar examinations, and if, as is often the case, the Bar examination questions are on local statutory and case law, it is inevitable that the study of local law will be made the end rather than the means. In a recent conversation with an influential and highly esteemed member of this Association, he expressed the opinion that the state Bar examiners were likely to work a prejudice to the cause of legal education, because of their tendency to emphasize a knowledge of local law as a condition precedent to admission to the Bar. One correction of this would be to invite a member of the law faculty of some school in each state to serve on the board of examiners. This would be of advantage to the lawyer and teacher. But another corrective would be in the interchange of teachers. It is probable that in some schools where there is an impatience on the part of students with teaching that does not prepare for the Bar examinations alone, it would have a wholesome effect occasionally to introduce a teacher with broader views of legal scholarship.

Degrees.

Connected with the subject of comity is that of uniformity of degrees. The early history of degrees in the universities discloses a confusion of practices.

At the meeting of this Association in 1902, a report was made by a special committee on law degrees. According to this report the present practice in this country is almost uniform in giving as a first degree some form of Bachelor of Laws, abbreviated LL. B. There is a recent movement in a few of our schools either to discard this degree or to introduce or to substitute a doctorate of the form Doctor of Jurisprudence, abbreviated J. D., and to be compared with or made of equal rank with the Doctorate of Philosophy. This degree is now given by two or three schools. Several others are considering the matter, and one school is awaiting some action

by this Association in the belief that so important a change should be general and under the sanction of this Association if possible.

The order of degrees in law should be bachelor, master and doctor, the latter being the highest degree in the art and should be the scholar's degree—a degree preferably for one who is to teach law. They should be given so as to be correlated. It is possible that the LL. B. degree might be confined to students who have not already a bachelor's degree in arts or its equivalent, and the J. D. be given to those who have previously received a bachelor's degree in arts or in law, provided the doctorate is conferred only by schools in which the work is post-graduate and equivalent to that required for the degree of doctor of philosophy. This last qualification is the view of the above report. A multiplicity of degrees, especially if uncorrelated, is not desirable.

Some objection has been made to the J. D. degree because of its novelty. Some of us can remember lawyers who laughed at the LL. B. degree as a novelty. Degrees will be in vogue as long as they are valuable, and the novelty of the J. D. degree will soon wear off. It may become as useful as the Ph. D. if one wishes to obtain a position as teacher. It also may be convenient in connection with a fourth year of which I wish to speak later.

Co-operation in Producing Case and Text Books.

Also connected with comity is co-operation in the production of case and text or reference books. Perhaps some of the criticism of case books might be modified if our case books had fewer pages, and demanded a less intensive study. The experience of a number of teachers is that it is impossible to cover two volumes of eight hundred pages each in two recitations per week of a school year. Each teacher knows of cases that might be better than those included in the case book used. It is highly probable that the combined experience and knowledge of a number of teachers not only might abbreviate

the time necessary to prepare a case book, but would result in a better book than any one of them could make, and one that would be generally acceptable. To accomplish the making of such a book it would be necessary to have an editor, and for the contributors to share their reputation and profits. The opinion has been expressed that the teachers of law are unwilling to do this last. I do not hold that opinion. Moreover, it is safe to say that if the teachers do not combine in this work law publishers will undertake it.

Another possible form of co-operation would be the preparation of articles on the fundamental principles of the fifteen or more subjects required in the schools. These with important magazine articles and papers read before meetings could be combined either in an encyclopedia or a series of small books after the style of Scrutton's History of the Law Merchant, and used by the student instead of leaving him to the large and often worse than useless text books and encyclopedias.

A Fourth Year.

I have been asked to refer to the subject of the fourth year. Is it desirable to add a year to our curriculum? When one considers that in engineering schools not only is a fourth year demanded, but in many cases the summer vacation is required for practical work, and that the medical schools are considering a fifth year, and that our three years of thirty-two weeks each is in fact only ninety-six weeks or two months less than two years of continuous work, it seems desirable to extend our period of study. In response to a number of inquiries, it has been said, "Yes, by all means, let us have a fourth year, but not required."

The present intensive system of study is admirable training, but some question whether it is not at the expense of broad scholarship. Moreover, the introduction of new titles almost demands either an elective system with a wide range or additional time. Irrigation, mining, law, homesteads, administrative and international law are some of the subjects that

deserve fuller treatment. The memorial of Professor Wigmore, submitted to this meeting, suggests a wide field for useful study, possibly only in a fourth year. And again the demand for teachers of law justifies either a special school or special courses and a longer period of study for those who propose to make teaching their profession.

On the other hand, it is said that training, and not complete legal knowledge, is all that a law school can give. Or as one member of the Association said, "Too much time should not be spent in sharpening tools. The better thing is to get at work." It may be admitted that there is a time beyond which residence in a seat of learning tends to unfit, and not to prepare, for professional work. But is there not a wide gap between graduation and self-support as a practicing lawyer? And have the schools succeeded in reducing that gap as much as they should? Again, it is necessary to admit that it is the general testimony of those teachers who have had students hanging on after getting their bachelor's degree for a further so-called degree of Master of Law, that such students not only generally are inferior as students, but incapable of being lawyers, and use the time and strength of instructors at the expense of the other students. But it is safe to say that in schools with small faculties it would be impossible to add a fourth year without increasing the teaching force.

Official Organ.

The subject of an official organ for this Association will be presented in a special report at this meeting. In response to a letter of inquiry I have received a number of answers unfavorable to the publication of a magazine after the style of the best of our law reviews, and for two reasons. The writers, although approving these reviews, express a doubt whether an additional review would not impair the existing reviews, and also feel that the cost of such literature is oppressive even at present. Professor Wigmore's memorial contains some admirable suggestions as to the character of this organ.

Time and Place of Meeting.

A considerable number of members of this Association have expressed the wish that its meetings might be held at the same time and place as the meetings of the American Historical Association.

The American Bar Association, with its several sections and committees concerned in topics either academic or closely allied with those germane to this Association. together with our organic relation to the parent Association, makes it exceedingly difficult to discover so clear a line of cleavage between the professional aspect of the Association and its academic as to say that a change of meeting place is desirable or politic. Such a change no doubt would facilitate the attendance of many members, particularly those whose schools are in session by the beginning of September. But it is a serious question whether any advantages are sufficient to compensate for the benefits from a continuous close association with those who are practicing what we undertake to teach.

PRACTICE WORK AND ELECTIVE STUDIES IN LAW SCHOOLS.

BY

JAMES PARKER HALL,

DEAN OF THE UNIVERSITY OF CHICAGO LAW SCHOOL.

One of the difficulties confronting the persons yearly honored by invitations to read papers before this Section is that of choosing a subject with even a flavor of novelty. Those law school problems that can be much enlightened by discussion are neither many nor complex, and we have talked about them all before. Experience is solving them for most of us more effectively than argument, and, like our theological brethren, the temper of our gatherings is passing from the rigor of doctrinal debate to the genial toleration of the experience meeting. So long as our greatest court decides its most interesting cases by a five to four vote, we must admit that reasonable men may differ about some of our questions; and one over which disagreement is certainly reasonable is how far practice should be taught in the law school. Some consideration of this will form the first part of my paper.

Discussion of the subject in recent years has often been prefaced with the statement that half of the appellate litigation in this country is over questions of practice, and has proceeded upon the assumption that law schools could give instruction that would very much diminish this proportion. The first proposition, as usually stated, is extravagantly misleading, and the second may well be doubted. In 1894 there was published in the minutes of this Section[1] a table prepared by Frank L. Smith, of New York, purporting to show that nearly one-half the points passed upon in ordinary civil cases by the appellate courts of the United States and Canada in 1893 did

[1] 17 A. B. A. Repts., 367 (1894).

not involve the merits of the causes, but concerned evidence, pleading, or practice. This table is the basis for the statement referred to. Nearly one-third of the points included in it are in evidence or pleading, regarding the teaching of which there is no general controversy. The thirty-five per cent. remaining, however, seemed extraordinarily large, and to test the figures I examined the reports of the highest courts in Massachusetts, New York, Michigan, and Illinois for the year 1902–3, tabulating the practice points, and endeavoring carefully to distinguish them from points of substantive law. It appeared that less than ten per cent. of practice points were passed upon by these courts; and I strongly suspect that Mr. Smith's system of classification must have been very liberal toward the practice headings.

Really the case against our practitioners is not nearly so bad as even this, for many practice questions are included by counsel as makeweights in cases where the appeal is really taken on the merits or for delay. That such objections are overruled in an appellate court does not stamp either lawyer as incompetent. They are simply playing all of the points in the game. In about one fourth only of the practice points raised in the cases I examined was the practice followed held bad where an alternative existed, and in part of these the questions must have been doubtful and no more to be settled without litigation than are moot points in substantive law. Badly drawn statutes and rules of court are responsible for much earnest controversy over points of practice. The proportion of practice points on appeal in which the lawyers might reasonably have been expected to do better is thus probably somewhere between one and two per cent., a showing much more encouraging than the fifty per cent. version. Just how good or bad this is we cannot tell, because we have no record of the proportion of errors in practice which do not get into the reports. Granting, however, that mistakes are too numerous to be creditable, how far might law school instruction reduce them?

In answering this we must discriminate. Many rules of practice depend in details upon no principle, but are arbitrary rules of convenience. Of this class, for instance, are many of those relating to appellate procedure. A variety of things are to be done in a manner and at times that are minutely specified. No lawyer not largely engaged in perfecting appeals ever tries to charge his memory with these *minutiæ*, or fails to refresh it by a reference to his books. Most mistakes here occur through carelessness, and would not be sensibly lessened by any reasonable amount of law school instruction. Now it is precisely this class of questions that is raised most frequently. About one-third of all practice points concern the one subject of appeal and error; and such topics as judgment, judicial sale, levy and seizure, limitation of actions, replevin, and attachment, all of them bristling with minute statutory regulation, form a considerable part of the remainder. The experienced lawyer becomes familiar with the common details of practice in these matters, but even for the tyro the information is plainly written out in the statute or contained in his annotated manual of local practice, and if he be careful and intelligent there is little the law school can give him on such points that he will not readily acquire for himself. The attitude of the law school toward such matters should be that expressed by one of the New York Board of Bar Examiners, when he said before this Section a few years ago: "We know that the legislature is apt to repeal at any time all we know on the subject of pleading and practice, and as we practice with a code on our desks for ready reference at all times we will not exact from the student knowledge we do not possess in an eminent degree ourselves."[1]

On the other hand, while the details of practice in our various states differ, its general principles and theories are similar. The chief benefit that a student will gain from a course in practice will be less an abiding knowledge of the exact steps to be taken in a given proceeding than an idea of what kind

[1] 22 A. B. A. Repts., 533 (1899).

of steps he must expect to look up the details about in his local practice books. Just as it is a better use of his time to learn the arrangement of a digest than to try to memorize the cases, so it is better for him to learn what is typical of practice in general than to spend much time in familiarizing himself with local details. No doubt the best method of teaching what is typical in practice, even in schools whose students come from many states, is to base the instruction upon the practice of one state, as Professor Redfield suggested a few years ago, emphasizing what is essential rather than details.[1] The important elements of common practice, including the steps in the principal forms of action through judgment to execution, with their ordinary incidents; the procedure in the chief provisional remedies; and the typical procedure of an appeal, may be fairly well covered in the equivalent of two hours of class-work weekly for a year. If, in addition, a serious attempt is made to teach trial practice and the art of conducting cases before a jury, probably at least as much more time must be spent.

No doubt both of these courses, well conducted, would be useful to a student. The practical question, as has often been said, is one of relative values. What is the best use of a student's time? I do not think this question can be answered in the same way for all law schools. A school may be unable to provide a wide curriculum, and its students, drawn almost wholly from a single state, may for the most part go into practice for themselves immediately after leaving the school. A large majority of American law schools are of this type. The relative value of the practice courses in such schools will be high. Not only are they likely to be better taught than a number of the courses in substantive law, but there are no valuable elective courses to be substituted for them. Inasmuch as nearly all of the students are from the state whose practice is taught, even details are not valueless, and the student who does not have the benefit of an apprenticeship in an office

[1] 25 A. B. A. Repts., 556 (1902).

before he starts for himself needs instruction in practice more than if he has had some office experience first.

At the other extreme are those schools which offer more important courses in substantive law than can be taken in three years, whose student body represents many states, and whose graduates are commonly able to spend some time in an office before starting for themselves. Every argument for the relative value of practice courses in such schools is much weakened. Where more work is offered than can be taken in three years, many students will wisely choose that which they are least likely to be able to master by themselves. Probably ordinary practice can be learned with less difficulty than most branches of substantive law. It is chiefly statutory; the statutes are abundantly annotated; there are usually excellent local books upon it; its precedents are rarely sought outside the local jurisdiction; its historical roots are of little consequence; it is not a reasoned system based upon complex conceptions of social warfare; it is not related to other branches of law in evolution or by analogy; and its problems conspicuously lack the wealth of circumstance and variety of incident that create so much of the fascination and difficulty of the substantive law. The student who enters an office for a short time after leaving the law school will not at once have to decide emergency questions of practice upon his own responsibility, and a reasonable amount of systematic study in connection with his office work will make him a fair practitioner in those matters in which proficiency can be gained without considerable experience.

On the other hand, there are several respects in which law school instruction in practice is superior to what even a diligent student will gain in an ordinary office. Unless a long time is spent in an office, the work done is apt to be fragmentary. Some things he will do frequently. Some not uncommon proceedings may never chance to be turned over to him. These he must learn from reading, and there are a good many practical hints that he will not find in the books. The

unwritten customs of lawyers approve ways of doing things puzzling to one acquainted only with the annotated practice act. Moreover, there is often a choice between several methods of procedure where the most intelligent reflection, unaided by experience, would scarcely suggest the one best for a client. A good teacher of practice can give the student much of his experience in such matters, and in his early days this may be very useful to the young lawyer. Even in those schools whose graduates generally enter offices there are a respectable number who wish to begin practice for themselves at once, or to whom it is important to have a fair knowledge of practice immediately upon entering an office. Certainly there are circumstances where such knowledge is of substantial advantage at the start, and its ultimate value, as compared with another course in substantive law, the student can probably determine as well as anyone. The theory of elective studies in law schools rests largely upon the belief that there may be a reasonable difference of opinion regarding the best courses for the individual needs of students and that the latter may ordinarily be trusted to decide this for themselves. There must be many instances where students might reasonably think a course in practice more beneficial to them than certain courses in substantive law, and my conclusion would be that law schools of all types might wisely offer at least elective instruction in practice, exclusive of those features that are supposed to be taught only by mock jury trials.

Regarding the value of the latter, in view of the time they take, I am skeptical. It is true an elaborate system of such trials has been in existence at the University of Michigan for several years, and has been introduced in some other schools; and it is true that members of the Michigan law faculty, for whose judgment I have the highest respect, believe in their value. In spite of this, I think one may have serious doubts. The ability to try jury cases even fairly well is far more an art than a science, and is to be acquired only by an amount of experience and observation far greater than any law school

can afford. The school at best can give students but a slight start in this direction—how slight appears when we consider the artificial conditions under which mock trials must be held.

The witnesses are all intelligent young men, somewhat versed in law. There is among them neither the variety of intelligence, training, age, sex, occupation, social condition, or even of character, that marks the ordinary witness, and is the distraction of the trial lawyer. The same is true of the jurors. The mere fact that they are accustomed to legal ways of thinking makes them totally different material from the juries of our courts. Then there is the evidence. If it is merely learned by the witnesses, there will be almost no element of reality in their examination. If, as at Michigan, the witnesses actually see the facts to which they testify acted out before them, this is better; but even here there can be no real element of passion, bias, or interest to color their testimony, to induce falsehood and concealment, and to be exposed by cross-examination; and there is an additional artificiality in that the witnesses know beforehand that they are to observe what goes on in order to tell of it in court. Such observation must be much less casual and less likely to be mistaken than is that of most real witnesses. Finally, the sense of responsibility on the part of the attorney, which is so great an educational factor in real trials (as in all real life), must be largely lacking in the imitation.

It is hard to believe that many students can obtain such benefit from taking part in a few mock jury trials that the third or fourth case they try in actual practice will be affected by it. The cases that are adapted to mock trials lie in a narrow compass. The classes of facts most difficult to deal with in actual litigation are in general those least suited to the moot court, such as questions of negligence, value, damages, mental states, expert opinion, and the like. I do not suppose it would be claimed that students can get from this exercise much practice in the art of handling questions of fact before a jury. Its value must consist rather in giving

them some knowledge of the processes of this branch of litigation: how to empanel a jury and open a case, how to present various kinds of evidence, in what form questions should be put, how objections should be made and exceptions taken, and so forth. Now these matters are very easily learned. Some of them may be treated in the course on evidence, and any bright boy who has had a year or two in a law school can get a fair knowledge of the others in a few days by attending some actual trials and reading a small treatise on trial practice. He can do this in vacation, and devote his time in the law school to more difficult matters and those that better repay theoretical study. The trouble with the young lawyer is not that he does not know these things in cold blood, but that he does not remember some of them at the right time in the excitement of trying a case. He will lack self-possession more than knowledge, and until he has tried enough cases so that certain processes have become almost habitual he will continue to make simple errors. A ready command of trial procedure is to be gained only like a ready command of the rules of evidence—by constant practice at the real thing. There could be no simpler rule than that requiring an exception to be taken in order to preserve an overruled objection for appeal, yet failure to do this was one of the most frequent errors in practice to be found in the reports of the four states which I examined. The lawyers who made this mistake knew better, but they forgot, and it is hardly conceivable that they would have done better had they participated in a few mock jury trials before beginning practice.

These are the reasons why I do not think that a law school of high grade which offers more courses in substantive law than can be taken in three years should encourage its students to spend any of their school hours in trying mock jury cases. The really difficult things about trial litigation cannot be learned in this way, and the easy ones can be acquired elsewhere with an expenditure of less valuable time. I do not lay any particular stress upon the fact that the great majority of

lawyers do practically no trial work. This would be a good reason for making such work elective, but not for omitting it entirely, if we believed that the law school could do work in this direction comparable in value to what it does in sustantive law.

At risk of encountering the objection of multiplicity, I want to say something upon another topic. Last year the President of the Association of American Law Schools chose "The Elective System in Law Schools" as the subject of his address. In it he criticised any arrangement by which more than about one-fifth of a student's work for the three years should be elective. So fair a statement of the objections to a wider election deserves an answer from those who believe differently, and this joint meeting of the Association and of the Section of Legal Education seems a favorable occasion for it.

The growth of the body of the common law itself in the last fifty years, the very recent application of scientific methods of analysis and research to its doctrines and history, and the present necessity of confining the law school course to three years, have all contributed to produce the elective system as it exists in five or six American law schools. There is more matter of substantial general importance in our law today than can be thoroughly taught in three years. It is unnecessary to argue that it is better for a student to cover three-fourths of the field of the law thoroughly than to cover it all superficially. The most valuable possession a student can carry away from a law school is that ability to analyze complicated facts, to perceive sound analogies, to reduce instances to principles, and to temper logic with social experience, which we call the power of legal reasoning. Superficial study is fatal to the acquisition of this power, which alone makes truly effective any amount of legal information. A large number of law schools have not at present the resources to attempt teaching all branches of law, nor even all of substantial importance. They do far more wisely to choose enough work to employ a student for three years and to

require it all than they would do to use the same amount of money in giving more courses less thoroughly. There are also a number of schools which offer, in addition to the required work, a few extra elective courses which are frankly given in a more cursory way than the regular work. No advocate of elective studies would wish to see these schools permit their students to substitute such electives for the regular work thoroughly given. So far we should all agree.

A real difference of opinion regarding the elective system only arises in the case of those schools, relatively few in number, which offer considerably more work of substantial general importance, thoroughly well taught, than can be taken by the average student in three years. Here the method of choice becomes important. A free elective system in the last two years of the law school does not assume, as Professor Huffcut suggests, that the end of general legal discipline (using these words in the narrow sense he intends) is the only thing to be considered. It does assume, however, that there are such differences in teachers, in students, in methods of treating subjects, in the ease with which subjects may be mastered outside of a law school, and in the special needs of students, that the greatest net good from discipline and information combined may be obtained for any particular student by a wise election of courses.

It may be pertinently asked what assures a wise election? I should answer: the maturity of the student, and his natural desire, if he be earnest, to get the best possible preparation for his profession. But, it will be said, many students are not mature and many are not earnest. So far as concerns students under twenty years old, beginning professional study directly from the high school, this is obviously true, and law schools that do not require at least two or three years of college work for admission may be wise to restrict election more narrowly. Certainly college experience shows that the older men elect work far more intelligently than do the underclassmen. What I have to say, therefore, is meant to be

particularly applicable to those schools with admission requirements high enough to secure a considerable degree of maturity and judgment in their students. Indeed, such schools are almost the only ones permitting notable freedom of election. Of the six American law schools whose second and third years are elective, Northwestern alone admits students who have had no college training or are not over twenty-one years old. Its secretary writes that the elective system there is qualified by the fact that most of its students take the Illinois Bar examinations, for which the study of certain subjects is specified. These are naturally almost certain to be elected. Northwestern also has a higher percentage of college graduates among its students than most other non-graduate law schools. Its experience, therefore, may not be a reliable guide for schools differently situated in these respects.

Of the other five schools with a wide elective system, it is significant that four, Harvard, Columbia, Stanford, and the University of Chicago, constitute at present the entire group of American law schools requiring a college education for admission, and that the fifth, the University of Wisconsin, has just raised its admission requirements to two years of college work. This insures a degree of maturity and training that should enable their students to profit from an elective system, if that system, wisely used, has any decided advantages. Occasionally a student may not choose well, from lack of judgment or purpose. Serious errors due to the first will rarely occur where good advice is so readily to be had, and omissions caused by the second need not influence us, for a youth of full age, who is preparing for his chosen profession without earnestness, will not long encumber her ranks, election or no election.

What, then, are the advantages of an elective system, assuming that those students who are worth saving will honestly try to obtain them?

In the first place, after the mastery of four or five fundamental courses which are required in all schools, it is not easy

to say *ex cathedra* which courses in a particular school are the best for any particular student, or even for that abstract individual, the average student. In most instances the value of a course to a student in giving him that combination of stimulus to independent thinking, training in legal reasoning, and information about the subject, which is the aim of good teaching, depends far more upon the teacher's method of treatment than upon the subject matter. A subject of very modest intrinsic importance may be so illumined by a teacher who lays all other branches of law under contribution to furnish analogies or to illustrate principles that its worth to the student is far greater than its title would indicate. This is notably true of several of the subjects Professor Huffcut considers of subordinate or little importance. Among these may be mentioned trusts, conflict of laws, suretyship, constitutional law, quasi-contracts, and partnership. There are hundreds of recent graduates of some of our law schools who will testify that from few or none of the courses generally thought more important did they obtain more real benefit than from these courses under certain teachers. Less generally, perhaps, but in many individual cases, the same is true of other courses. As an illustration, I may repeat what a student—a good one—who had taken a course in common law pleading in a Western law school once told me. He said: "I learned more law about other subjects in that course than I did when I took some of those subjects. We could almost have passed the Bar examination on what we had in that course. It was a liberal education." One may believe that that teacher could not have taught a subject so unimportant that it would not have been well worth taking.

It should also be remembered that there are individual differences in personality and method between teachers of equal excellence which have a marked effect upon students. One teacher will especially stimulate and interest one type of mind, and another another type. I thoroughly believe in the wisdom of mature students choosing even law courses quite as

much for the teacher as for the subject. With such students nothing tends more to make the class-room work an inspiration and a pleasure to both teacher and taught than an elective system, and this is worth a great deal more to a school than is the certainty that every student shall study all the subjects thought by its particular faculty to be most important. The student may take full advantage of the work of those teachers from whom he gets the most benefit, and the teacher is encouraged to his best efforts in the preparation of every course by the knowledge that, if he makes it really valuable, students are as free to take it as any other course. The possibilities in several of the courses I have mentioned might never have been developed had all law faculties been *a priori* of Professor Huffcut's opinion regarding their importance, and the field of legal scholarship would have been the poorer.

Not a few students know, before leaving the law school, into what kind of practice they are going, and a man who knows that he must deal immediately with the legal affairs of a city, a railroad, an insurance company, an indemnity company, or a wholesale house may wisely elect municipal corporations, public officers, carriers, insurance, suretyship, or bankruptcy, even at the expense of wills, advanced property, or bills and notes. Such cases constantly occur in some numbers, and I think a mature student is better able to decide what is best for him than is any law school officer. Of course, the elective system does not preclude men from advising with the faculty about their work, and from my own experience I think they seldom fail to take all of the more important subjects without consulting some member of the teaching body.

Finally, it is really not a very serious matter that some students should leave the law school without having had systematic instruction in one or two of the more important second or third year subjects. Failure to take such courses in class never means that the student remains totally ignorant of them. The principal doctrines of agency may be picked up from many of the other courses as readily as may persons and

damages. Suretyship, partnership, and trusts will incidentally give some knowledge of bills and notes, a subject that today arises far less frequently in practice than does insurance, constitutional law, or bankruptcy, for example. Less readily, perhaps, much of sales may be learned from other commercial courses. As trusts is taught in a number of schools, it includes considerable matter touching equity procedure and the principal branches of equitable relief which are specifically covered in the general equity courses. This to a large extent accounts for the seeming neglect of equity some years ago at Harvard, where for a long time everyone has taken trusts. The recent preparation of much improved case books upon the former subject has restored it to normal popularity there.

Besides the incidental knowledge of various subjects which may be thus gained, many students, knowing that they cannot take everything in the law school, will read some subjects by themselves. A student who has studied fifteen or eighteen courses by methods that have trained him to use his own powers of reasoning and investigation will have no great difficulty in mastering a few other courses by himself, and he may very reasonably prefer to do this with one or two topics that, though important, are not very difficult, or are particularly well dealt with in treatises, or are largely regulated by statute where he intends to practice.

Under normal conditions, it will be found that the principal law courses are generally elected by all but a small percentage of students. Marked variations are temporary, and due to local conditions which, when understood, justify the result, or they reflect differences of opinion that exist among law teachers themselves. The records of the elective schools for five years past show that the elective courses Professor Huffcut thinks most important—equity, evidence, sales, wills, property, corporations, agency, and bills and notes—are taken at Stanford and Chicago by 98 per cent. of the students who complete three full years of work ; and, excepting agency and bills and notes, at Harvard and Columbia by over 95 per cent. of

such students. During the single year that the elective system has been in operation at Wisconsin, every candidate for graduation has completed all of these courses. Practically everyone in these schools also takes trusts, which many persons would wish to include in the list of most important courses. At Northwestern everyone elects property (including wills), and about 90 per cent. elect the other courses mentioned, except trusts, which is taken by 60 per cent. At Columbia 87 per cent., and at Harvard perhaps not over 75 per cent.[1] have taken agency and bills and notes. Regarding these two subjects, it is to be noticed that agency is not intrinsically difficult, that it may be more readily acquired from other courses than any other important subject, and that there are excellent treatises for students upon it. The other subject has been made statutory by the Negotiable Instruments Act in many jurisdictions, including those from which Harvard and Columbia most largely draw their students. Opinions differ as to whether or not this has made it substantially easier to master the subject out of school. Only experience can decide this, and the students are getting the experience. At Columbia the percentage of those not taking the subject has steadily increased during the last four years, which is perhaps an indication that recent graduates have not regretted their choice.

These considerations induce the belief that, with students mature enough to choose wisely, an elective system in law schools is advantageous to both students and teachers. From the fact that it has been uniformly adopted by those schools requiring a college education for admission, it is likely that the example will be followed by any other schools that raise their requirements to approximately this standard. During the next decade a number of schools will probably decide to require at least two years of college work as a preparation for law, and it will be asked whether this secures

[1] This figure is based partly on local estimates, an official record being kept at Harvard of those only who take the examinations.

sufficient maturity in students to insure the wise use of an elective system. I think it does, and that the experience of our universities, which all agree in the wisdom of elective work during the last two college years, is a sufficient warrant for this in any law school that offers more courses thoroughly well taught than can be taken in three years.

SOME ADMISSION REQUIREMENTS CONSIDERED APART FROM EDUCATIONAL STANDARDS.

BY

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It is our habit—the habit of those of us who truly love our profession—to think of it as *facile princeps* among all others; and we are wont from time to time on such occasions as this to recount its glories, rehearse the triumphs of the past and portray the future in all the splendors of an Utopian dream that is realized. It is perhaps well for the profession and for us that it is so, for only by keeping ever before us the true ideal of the lawyer's high calling may we hope in our own lives even to approximate the full measure of our possible usefulness. This we can never achieve if we fail to realize, grasp and have ever present with us a true and adequate conception of the dignity, the possibilities and the commanding field for usefulness which in America lie across the lawyer's path. Herbert Spencer declared in his Synthetic Philosophy: "Beyond the primary truth that no idea of a part can be formed without a nascent idea of some whole to which it belongs, there is a secondary truth that there can be no correct idea of a part without a correct idea of the correlative whole." We express it more tersely when we say we must get things into true perspective.

In endeavoring to do so, we cannot be blind to the fact that here in America, where Justice reigns only by and through the people under forms of law, the lawyer is and must ever be the high priest at the shrine of Justice. And no lawyer is worthy of his calling who does not, with James Wilson, know that "justice is the great interest of man on earth," and knowing this, strive to advance his profession so that there will no longer be room at the Bar—at the practising Bar—for the

purely mercenary, for those who view the calling as a trade, as merely the means of gaining a livelihood, or as a stepping-stone to political preferment or business activity. Such men, not only lower the morale within the profession, taking from it that subtle, indefinable ethical something which breathes into it life and love, but they debase it in the eyes of the public, and thereby not only injure the profession, *qua* profession, but they lower throughout the nation the entire system of administrative justice. We know that under our form of government, unless the system for establishing and dispensing justice is developed, not only to a high point of practical efficiency, but so maintained that there shall be absolute confidence on the part of the public in the fairness, integrity and impartiality of its administration, there can be no lasting permanence to our republican institutions. Our profession is the keystone of the republican arch of government, and I limit the profession strictly to the practising Bar, and to the judiciary which must ever be drawn from that Bar, and to those professors of the law who are training the future generation of lawyers for call to the Bar. Weaken this keystone by allowing it to be increasingly subject to the corroding and demoralizing influence of those who are controlled by graft, greed and gain or other unworthy motives, and sooner or later the arch must fall. It requires no argument to prove that the future of the Republic depends upon the maintenance of the shrine of Justice pure and unsullied. We know it cannot be so maintained unless the conduct and the motives of the members of our profession, of those who are the high priests of Justice, are what they ought to be.

Before each of us, then, who as lawyers see this in its true perspective, there is a plain, simple duty, a patriotic duty, which those who love this land of freedom cannot escape, and it is to use our influence, be it great or small, to help make the Bar what it ought to be. An overcrowded and inefficient Bar clogs the wheels of Justice, hampers the judiciary in the discharge of its functions and brings the entire system into dis-

repute with the public. Where is there a field of reform anywhere for the advancement of the well being and best interests of humanity which will pay better in results for a given amount of labor expended than the effort to improve the personnel of the Bar here in America?

Once the momentum of progress is established, it pulses forward along the lines of arithmetical progression. Improvement of the Bar instantaneously develops stronger and better judges, and through them the whole fabric of administrative justice is regenerated, thereby strengthening the warp and woof of our national life. For success the main essentials are organization and common sense, as reform in matters of admission to the Bar is one the merits of which are usually conceded. Its chief enemy is apathy on the Bench and at the Bar, for it is a reform in which few take a deep interest, and still fewer know how to bring about practically. Only by concerted and aggressive, organized action may substantial, practical results be attained. It was George M. Sharp, of Baltimore, the Chairman of our Committee on Legal Education, who first grasped the possibilities of the latent dynamic energies of this Association. The fruits of the less than a score of years of real activity on its part to advance the standard for admission to the Bar is evidence of marvelous results achieved, yet the victory is far from won, the battle to make the American Bar what it ought to be is but begun.

It is my purpose today to discuss very briefly a few points closely related to admission to the Bar, and to consider them entirely apart from educational standards, and in doing so I shall not attempt any exhaustive treatment, but the remarks will be merely of a suggestive nature, avoiding theory so far as possible, and dealing only with practical points; for, after all, if in the last analysis we are not practical in this matter, there will be much of "love's labor lost."

The remarks I shall make will naturally group themselves under two heads:

I. The law schools and the Bar relatively considered.

II. Calls to the Bar other than through approved law schools.

I. In the matter of the Bar and the law schools, this Association, recognizing the latter to be the giant feeder of the profession, and destined to be ever increasingly so, has labored strenuously to improve the standard of legal education in these institutions until, as was so gracefully and graciously acknowledged at our last meeting by that great exponent of the law school method of instruction, James Barr Ames, Dean of the Harvard Law School, when he approved the sentiment that "the law schools no longer need the fostering care of the Bar as they formerly did."[1]

True it is that the law school system of education has thrown off the swaddling clothes of infancy, and now stands forth in man's stature, the one and only scientific portal to the Bar; but we of the Bar may well pause and consider whether or not this creature of our profession is not like unto Frankenstein's monster, and destined, unless regulated and controlled, to injure the Bar. That certain outgrowths of the law school system have been recognized as dangerous is undeniable. It is not a far cry to the day when the faculties of the great law schools were clamorous for the admission of their graduates on law school diplomas. A note of warning was sounded in 1876 by Lewis A. Delafield, of New York, in his brilliant and comprehensive paper on "Admission to the Bar," read before the American Social Science Association at Saratoga Springs.[2]

The practice, as it had at one time existed in New York, he referred to in these words:

"Unhappily, the law gave to the three principal schools the pernicious privilege of having their graduates admitted to the Bar upon presentation of the school diploma and without the public examination in open court required by the rules. . . . In all the schools the professors themselves conducted the examinations for admission to the Bar. Thus the singular

[1] 1904 A. B. A. Repts., 507.

[2] *Penn Monthly*, December, 1876, p. 960.

spectacle was presented of first inviting all, however unfitted, to study law, and then admitting them to practice upon report of their instructors."

This Association has recorded itself against the practice, and the Bars in the more important jurisdictions have likewise recognized the danger, and with such good results that in 1901 the Memorial of the Pennsylvania Bar Association [1] to the Supreme Court of Pennsylvania, which resulted in the establishment of a state board of law examiners in the latter state, and the abolition of admissions on law school diplomas, declared:

"With reference to admissions on LL. B. diplomas, it is proper to advert to the significant fact that a Harvard diploma no longer admits to practice in Massachusetts, nor a Yale diploma in Connecticut, nor a Columbia or Cornell diploma in New York, nor any diploma in England or in Illinois, Ohio, Virginia, and many other states which might be named. In all these jurisdictions the candidate, whether from college or office, must submit to the regular examination by the board of examiners appointed by the court of last resort."

While in some jurisdictions there are law schools which cling tenaciously to the privilege of having their students admitted to the Bar on diploma, to the credit of law schools as a class let it be recorded that their leaders have recognized the impropriety of such admissions. In 1901[2] James Barr Ames, Dean of Harvard, declared:

"The faculty of the Harvard Law School would unanimously oppose any such exemption in favor of its own graduates."

And in 1904 [3] he said:

"At a time when law schools needed fostering there was a plausible excuse for making the school's diploma a card of admission to practice. But at the present time to say of a law school that it needs this factitious inducement to attendance is to impeach the quality of the school. In truth it is a detri-

[1] 1901 Pa. Bar Assoc. Rept., 116.

[2] Letter to author of this paper, February 28, 1901.

[3] 1904 A. B. A. Rept., 516.

ment to a school if its diploma admits to practice in a given state."

Likewise, in 1901,[1] William A. Keener, then Dean of Columbia, placed himself on record as follows:

"The entire separation of the law school and the state in the matter of admission to the Bar has, I think, been in the interest both of the Bar and of the schools. Every applicant for admission to the Bar is on a footing of equality with every other applicant—every applicant is subject to the same tests; the examiner is a stranger to them all—no applicant is admitted on an examination in work of which he has made a special study under the examiner. At the same time the law school enjoys the greatest freedom in the award of its academic honors, since the failure to receive a degree does not put the unfortunate student in a worse position with reference to admission to the Bar than that occupied by his more fortunate classmate."

So also William Draper Lewis, Dean of Pennsylvania, the same year,[2] declared:

"In no case should a degree be considered as admitting without examination. In the long run the practice of admitting on degrees is found to be a disadvantage to the Bar, and a still greater disadvantage to the law school conferring the degree."

With such testimonials as guides, and with the records of those jurisdictions which have already abolished admissions on diploma, we may safely assume that the pernicious practice is doomed to an early death in the fifteen remaining American states in which it still obtains.

But there is another development of the law school system with which the profession must contend, and which must be overcome if the Bar is to retain its prestige, but which, like the proverbial cat with nine lives, will be difficult even to scotch; indeed at present the cat seems to have each life in full vigor. I refer to this continual thrusting of law school graduates upon the Bar with no adequate conception of prac-

[1] Letter to Henry S. Cattell, of the Philadelphia Bar, January 17, 1901.

[2] Letter to author of this paper, March 6, 1901.

tice [1] and methods of procedure. It is unnecessary to discuss the fact or attempt to prove it, for the American Bar Association knows that as yet no law school has successfully solved the problem of teaching practice thoroughly. Some have zealously striven to do so, and may think they have, but others deny it, and declare, "We have not the time in a three years' course to do it properly." I need only refer to the discussions in 1902 upon the able paper of Professor Henry S. Redfield, of Columbia,[2] indicating the deficiencies of law schools in teaching practice, particularly the remarks of Professor Joseph H. Beale, Jr., of the law schools of Harvard and Chicago Universities, in which he clearly proved that a law school faculty, in preparing the curriculum for a merely three years' course cannot afford, in the interests of the student, to apportion a sufficient amount of time to teach practice thoroughly. He said:

"Is the best thing we can do for a student to teach him how to go into court and conduct a litigation? Evidently not. The first thing to do is to teach him law, the substance and the soul of law. This should take more than three years, but that is all the time we have to give to it. We have got to lop off something. . . ."

And he proceeded to show that in a properly apportioned three years' course it was necessary to eliminate much of the teaching of practice which would be desirable if the course were longer.

This is the issue the Bar of America has got to face in dealing with the law schools, and face it squarely we must. If, as Professor Beale suggests, for a law school to teach a student how to go into court and conduct a litigation is not the best thing that it can do for him—which I do not dispute, the best of the law schools having now but a three years' course—then we of the Bar must recognize that one of the best things that

[1] Knowledge of practice is not merely information as to *forms* of procedure, but, broadly speaking, includes the actual development of the power to assimilate facts, diagnose the difficulty and apply the remedy in such cases as arise in the routine of the practising lawyer.

[2] 1902 A. B. A. Rept., 545.

the courts and the Bar of America, acting in behalf of the people of the nation, can do for the proper development and maintenance of the administration of justice in our country—aye, an essential thing to do—is to see to it that no man shall be admitted to the Bar, and thereby granted the valuable franchise to practise on behalf of clients, unless he *is* trained so that he knows how to go into court and conduct a litigation and conduct it properly. This is another plain, simple duty which the profession owes not only to itself, but to the public.

And just here let me remind you that, while there are distinguished jurists who hold that the admission of an attorney is purely a judicial act, there are others who contend that only the legislature of a state, in the absence of constitutional limitation, has the power to prescribe the qualifications for admission, and that therefore the functions of the court are merely ministerial. It seems to me neither view is wholly correct, and while I do not wish unduly to push individual opinions, I can best state them in the form of propositions :

1. The profession of the law is a calling affecting the public interest, and as such the people—whether through the legislature, in the absence of constitutional limitation, or by the constitution directly, it is immaterial—have a right to regulate that calling and prescribe the qualifications for admission.

2. The right to practise is a valuable franchise conferred by the people.

3. In the absence of constitutional limitation, the legislature of a state, acting for the people, have a right to prescribe the qualifications which every man must have before he is granted this franchise to practise.

4. It is the prerogative of the court to ascertain, either directly or with the assistance of a board of examiners, whether or not the applicant is within the requirements, and in the determination of that issue the judges act judicially, and are absolutely supreme, and later, in admitting to the Bar a candidate within the qualifications, they act ministerially.

Here, then, we have the legislature as the representatives of the people, in the exercise of the police power for the protection of the public, fixing the qualifications for admission, and the court, in the exercise of the judicial function, determining whether or not the applicant for admission is within the requirements established by the legislature—a machine in perfect harmony, operating without friction, each wheel within its own sphere.

This duty to protect the public from incompetent practitioners is being rapidly forced to an issue by the extraordinary pressure for admission to the profession through the law schools. The figures are appalling. As pointed out last year by Professor Ames,[1] in 1880 there were forty-three law schools in America with a little over three thousand students; in 1904, one hundred and eight law schools with nearly fifteen thousand students; and the end is not yet. If there were need at the Bar for the thousands of men who are annually being turned out by the law schools, some might make this an excuse for inadequate preparation in practice, but the Bar and the courts are being swamped by the influx.

It is true that in those jurisdictions which have abolished diploma admissions the courts, through boards of examiners, have the power to remedy the evil by refusing to admit those who are inadequately prepared in practice; yet the plain fact remains, so powerful has this Frankenstein creation of the Bar grown, that there is great hesitancy on the part of examining boards in declaring graduates of reputable law schools deficiently prepared, particularly in localities where the boards are influenced or dominated by those connected or closely affiliated with the law schools—a most regrettable condition for the Bar and the public where it exists, but it is one for which the court, as the appointing power, is solely responsible. Then, too, the answers in substantive law of law school graduates are usually better relatively than those of other candidates, and high marks in these subjects are apt to carry

[1] 1904 A. B. A. Rept., 507.

a candidate through despite great deficiency in the practice papers, especially in those states where a candidate is passed or rejected on the results of his general average in the entire examination. But whatever the reasons, the fact remains that the Bar is being flooded with law school men, most of whom are inadequately prepared in practice, and the law school army for admission still comes marching on, ever increasing with a rapidity out of all proportion to the population and needs of the courts for practising lawyers.

The Bar of America is squarely up against this thing—"it is not a theory, but a condition we face," and it behooves us not to lapse into an apathetic and supine "innocuous desuetude," but to grapple heroically with the vital problem before this law school Frankenstein creation has the Bar helpless in its grasp, and we must keep in proper perspective the fact that a Bar of a size out of proportion to the volume of the business of the courts breeds a train of far-reaching disasters unnecessary here to detail, which clog, hamper and impair the administration of justice.

In dealing with this problem it is essential that both the Bar and the law schools should be practical, for if they fail to agree a clash is sure to come, which will bode ill to both. Let us all then, as American lawyers, as members of the greatest profession on earth, in the greatest nation of the world, strive to harmonize in the endeavor to save our profession and elevate it to the high plane upon which it belongs. And if we but get this thing into proper perspective, it ought not to be a difficult problem to solve, as it is possible for us to analyze the situation and agree upon the essential points, to wit: *First*, the leading law schools now present the very best method for receiving instruction in substantive law; *second*, the profession is indebted to such law schools for the advanced method of legal education, and should do nothing to hamper or interfere with them in their legitimate spheres of usefulness; *third*, the Bar—the practising Bar—must receive from the

entire profession every support necessary to its development along the lines of highest efficiency.

While the law schools will undoubtedly agree in principle with these propositions, we may assume that any movement which will tend materially to reduce the number of students in attendance or prevent natural growth, will seriously handicap the law schools in their work, and as a result adversely affect the advancement of the cause of legal education. The Bar should therefore endeavor to avoid results so unfortunate. The law schools will contend, and very properly, that no restriction should be placed upon the number of men who desire to acquire a legal education. This the Bar should concede.

On the other hand, on the part of the practising Bar the points must be made clear, *first*, that no matter what the law schools may attempt or be able to do in the matter of teaching practice, no man will be permitted to become a member of the Bar, and as such held out to a confiding public by the courts as one fully competent to care for their interests, until he shall have proven himself fully qualified to handle litigations which may be entrusted to him as a member of the Bar; and *second*, that the standard for admission to the Bar will be held sufficiently high in matters of character as well as in educational qualifications as to prevent the Bar from becoming unduly overcrowded. It is natural to suppose that the law schools will combat both these points until such time as they realize that they have another mission than merely preparing men for admission to the Bar, and that legal education is not to be limited to the practising Bar.

When in the dim and distant future the law schools come to recognize that the best interests of the profession will be conserved by having the practising Bar trained to the point of highest efficiency, and that *the law schools' field of usefulness is not limited to the preparation of men solely for call to the Bar*, they will comprehend their true sphere in the field of educational progress, and no longer, as a Frankenstein mon-

ster, be a menace to the profession, to help which they were created. It is not my intention to suggest that there should be either an artificial, theoretical or practical distinction between lawyers who practise in the courts and those who advise with the clients, as in England between barristers and solicitors. Far from it. But let those who are unwilling to give up their lives to our profession and make it their chief and only vocation, yet who desire a legal education that they may the better care for their financial interests or be better qualified to enter trade, understand that the law school is open to them with its professional degrees and all that they imply; but let them likewise know that the practising Bar is not for them; that it is reserved strictly for those, who as vestal virgins are to keep the lights of truth, honor and wisdom burning ever pure and unsullied at the shrine of Justice.

It is submitted for your earnest consideration that the sooner the Bar and the law schools agree to harmonize on some such basis as this, the sooner will both be able to take up and solve this question of inadequate preparation in practice, so apparent as a defect in law school graduates when admitted to the Bar. Perhaps the day will not come until the courts or the legislatures, as the case may be, shall have added, perforce of a stringent regulation, the much needed one year to the already too meager three years' course of study now generally insisted upon prior to admission. If so, although law schools may continue to confer the degree of Bachelor of Laws upon the completion of three years of study, the regulations for admission may also require that the law school graduate shall have spent one year as a *bona fide* clerk or assistant in a law office prior to examination for admission, for the declaration a half a century ago in that able report of the examining board to the New York Supreme Court in Matter of Pratt, 13 Howard Practice, 1, is as true today as it was then, when law schools were the exception and not the rule, to wit:

"All experience has proved that nothing short of a term of thorough study and training, and that in the office of a practising attorney, will ever make a lawyer. As well might the surgeon become qualified to practise his profession away from the subject, the mechanic to acquire his art by the abstract study of his trade, or the chemist away from his laboratory, as the legal student to become qualified to practise by merely reading without practical education."

The same thought was expressed in England as recently as 1899 by the Examination Committee appointed under authority of Parliament by the Incorporated Law Society, as follows:

"The committee adhere to the opinion, so long held by the council, that university education where practicable is desirable; . . . but, for reasons presently given, they consider that in nearly all cases the university teaching must precede the service under articles (*i. e.* the service of a five years' regular clerkship in an office). . . . These duties occupy him (the clerk) from hour to hour and from day to day during the whole of his articles, with the exception only of necessary and proper holidays. The master has to certify at the end of the service that the clerk has, from the date of his clerkship, been diligently employed in the master's professional business, and has not been engaged in any other employment. The clerk ought therefore to be occupied in the actual daily work, with its endless variety and examples in the application of principles of law, and in all these things under continual criticism and advice from the master or responsible and skilled managers, and it is in this way during the five years' service that a knowledge of the principles as well as of the practice of the law and its application to actual business becomes little by little fixed in the mind of the clerk, in a manner of which no academic teaching could hope to attain. Simultaneously an industrious articled clerk ought to read privately, or with the aid of a tutor, out of office hours, or at convenient times when he can spare the time, the text books and books of practice with increasing grasp as time goes on, and as his knowledge becomes enlarged by the actual practical work of each day. It is a universal experience that reading, combined with actual practical work, becomes easier and the results more lasting. In this way an articled clerk by degrees acquires a knowledge of the principles and the practice of the law by reason of the

work which he is obliged to perform day by day, and which the utmost industry and attention could not acquire from theoretical or academic teaching. . . . The university diploma ought to stand, and in the present University of London does stand, for a high standard of theoretical knowledge in a varied range of subjects and as the result of long study. . . . They (the committee) are of opinion that the existing examinations of the Incorporated Law Society being conducted by practising solicitors, and aimed at testing the knowledge of the student in the principles and practice of the law mainly from a practical standpoint, form a much better test than would be provided by any university examinations. If, on the other hand, a university degree, at whatever date obtained, entitled its holder to practise the law, *the result would be that the profession would no longer be restricted to persons duly qualified with practical experience and knowledge.*"

If a four years' requirement of study by the courts should not have coupled with it insistence upon the candidates' spending at least one year of the four actively engaged in the office of a practising attorney, it is natural to suppose that the law schools would provide one year more of training devoted largely to matters of practice for those gentlemen with legal educations desirous of being called to the Bar, and which might properly be designated a post-graduate course in practice.

With such a man as Professor Beale, fully acquainted with the work of the leading law schools of America, declaring that three years is not sufficient time to train a man properly in the law schools even in substantive law, it is somewhat startling, with the rank and the file of our profession overcrowded, that the American Bar Association should not long since have placed itself upon record in favor of a four years' course of study, particularly when the medical profession has already blazed the way, and in view also of the fact that the other one of the three great professions, that of the ministry, requires in the leading denominations equivalent periods of preparation, and in some even more. If the American Bar Association

does not fix its ideals as high as possible, does not advocate standards in matters of admission up to the highest point it may reasonably be assumed they should and may attain, what are we to expect of courts and local Bars, which are ordinarily apathetic in such matters, and which, when aggressive, look to this Association to lead?

Until this Association takes a positive and determined stand in favor of a four years' course of study with full and adequate preparation in practice as a preliminary to admission, little may be expected in the future in the way of a successful solution of this problem involving the deficient preparation in practice of men coming to the Bar through the law schools.

II. We now turn to and will briefly consider calls to the Bar other than through approved law schools, and by approved law schools is meant those absorbing substantially all the candidates' time during the period of study. The men desiring to become members of the Bar who do not attend such law schools, may be divided into two subclasses: (*a*) Those who are regularly connected during the period of preparation with a lawyer's office as clerks or assistants, and who pursue their studies under his direction as preceptor; and (*b*) those who prepare for examination for admission by study at a night school, or through the courses of some correspondence school of law or under the general direction of some lawyer, but who are engaged during the day in an occupation other than that of law, and neither serve an actual clerkship with a lawyer nor have any *bona fide* connection with the office of a practising member of the Bar.

It may be that with the ever-increasing demands upon the profession for better trained men, the day will come when the mere service of a clerkship in the office of a practising attorney, supplemented by such instruction as he may find the time and inclination to give, will not adequately prepare a candidate to meet the exactions of a competent examining board, and that a requirement that a considerable portion of the period of study shall be passed in a reputable law school may be found

essential; but at present this question may well be left to time and natural development. Much, however, would be gained for the profession if more attention were given by this Association to improving the environment and the course of study of the law clerk along such lines as indicated in that most helpful paper presented at the 1902 meeting by Franklin M. Danaher, of the New York State Board of Law Examiners.[1]

It is principally to the *status* of the men who are neither in an improved law school nor in a law office that I desire especially to direct your attention. This thing of admitting such men to examinations for the Bar is a modern American development, an excrescence upon our system, one of the most dangerous imaginable, and one which is destined to strike the roots of its malignant growth to the very vitals of the Bar if not speedily eradicated; for such men have not spent their period of development in the environment of the law, and in consequence have lacking that which breathes into them the spirit and the soul of the profession. Its logical development is that extraordinary provision of the Massachusetts law governing admissions, which permits a candidate, utterly regardless of when, where, how and how long he may have studied, to take the state board's examination. A remark in Mr. Delafield's paper of 1876, cited *supra*, is apropos now. Referring to what he called "the pernicious privilege" of admission on law school diplomas, he said:

> "Yet bad as it was, this mode of coming to the Bar was better than the method of admission by public examination without any time of study being fixed."[2]

Such a system, without the requirement even of any office or law school study, is still worse, and makes the examination the sole test and practically the only barrier to guard the profession; it is one which proceeds upon the theory that education in law is merely information in law, a *reductio ad absurdum*.

[1] 1902 A. B. A. Rept., 559.

[2] *Penn Monthly*, Dec., 1876, p. 960.

It is easy to comprehend how this system has unwittingly grown up in certain portions of America permeated with the spirit of freedom ever striving to accord equal rights to all and special privileges to none. No doubt the practice which obtained so long of admitting to the Bar on law school diplomas was at the root of the evil, for the argument then was on its face plausible that if the man who had the time and financial means to attend a law school and reap the advantages which accrued, was admitted to the Bar without any examination, certainly the poor boy who could not afford to attend a law school, but who, urged on by the fire of ambition to better himself, had spent years in conscientious study, ought at least to be permitted to show by an examination whether or not he had acquired sufficient knowledge to practise. A fallacious argument! "Information," it has been truly said, "is not education," neither will mere theoretical knowledge of law make a lawyer, and it bodes ill for the future of the Bar in those jurisdictions which admit to examinations for admission those who have spent their period of preparation away from the environment and spirit of the law. I repeat, this thing is a modern American departure from time-honored precedent, and with profit we may, at this point, briefly trace the history of clerkships in the law, and see how jealously the requirement has been guarded by the courts from encroachment when the matter has been before them for determination.

The statute of 20 Edward I (1292) empowered the justices to select from every county those best qualified to do service in the courts as attorneys. As early as the fourteenth century the profession was overcrowded, and in order to prevent its increase the statute of 15 Edward II, c. 1 (1322), was enacted, reserving the power of admission to the Chancellor and the Chief Justice. Notwithstanding this, incompetent men seemed to be successful in reaching the Bar, for by the preamble to the act of 4 Henry IV, c. 18 (1403), there was reference made to the great number of attorneys "ignorant of the law and not learned as they were wont to be," and this act

provided that those who were attorneys should be examined by the justices, and that only those who were "good and virtuous and of good fame" should be received and sworn well and truly to serve in their offices and have their names placed on a roll. On the other hand, those attorneys who were not good and virtuous and of good fame were to be excluded from the profession, and any found in default were forever after to be prevented from practising. But still the Bar increased, which was even at that time deemed a great evil, and an act, that of 33 Henry VI, c. 7 (1455), was eventually passed, which, after reciting that the number of attorneys was too great, and that it was their practice "to stir up suits for their own profit," limited the membership of the Bar in certain counties.

In 1606 the statute of 3 James I, c. 7, was enacted. It recited that owing to the abuses of sundry attorneys and solicitors in charging their clients with unnecessary fees and other unnecessary demands, the clients had grown to be overburdened and the practice of the just and honest serjeants and counselors at law much hindered, and that such attorneys and solicitors for their own profit were in the habit of delaying suits to an extraordinary degree. The act provided, therefore, that none should be admitted as attorneys or solicitors except those brought up in the courts in which they wished to practise, or were otherwise well practised in the soliciting of causes and who had been found by their dealings to be skillful and honest.

Apart from the restraining acts of Parliament, it was the custom of the courts to admit only a certain number of attorneys annually, and this practice was continued at least until the enactment of 2 George II, c. 23 (1729), which expressly provided that nothing therein should be construed to authorize the admission of any greater number than ancient custom or usage allowed. This limitation of the Bar has its counterpart today in the Connecticut regulation, so delightful in its possibilities for our brethren there, authorizing admissions only on vote of

the Bar, also in the Pennsylvania act of Assembly of 1834, re-enacting the provision of the act of 1722, only permitting the judges to admit "a competent number of persons," and under which the Supreme Court of Pennsylvania has said the judges "must necessarily judge of the competent number." [1] As early as 1654 the Supreme Court at Westminster had provided by rule that no one should be admitted as an attorney unless he had "practised five years as solicitor in court, or had served five years as a clerk to some judge, serjeant, barrister, attorney, clerk or other officer of the court, and who on examination should be found of good ability, honesty," etc. The statute of 2 George II, *supra*, directed that no one should be admitted as an attorney "unless such person shall have been bound by a contract in writing to serve as a clerk for and during the space of five years to an attorney duly and legally sworn and admitted," and that such person "during the said term of five years shall have continued in such service," and, in order to prevent an attorney from having more articled clerks than could receive proper training, the act also provided that no attorney should have more than two, and this is the law at the present day in England. Indeed, by the articles of clerkship which are still required in England, the preceptor, in consideration of the services to be rendered him, "doth undertake and promise that he will by the best ways and means he may and can and to the utmost of his skill and knowledge teach and instruct or cause to be taught and instructed the said (the student) in the practice of the profession, which he the said (the perceptor) now does or shall at any time hereafter, during the said term, use or practise."

If the regulations in American jurisdictions now required the perceptor of a student clerk to be bound by some such undertaking and promise, as the rules of admission might properly provide, it would, doubtless, in the majority of cases, result in the awakening to a sense of responsibility on the part of the preceptor, with corresponding advantage to the student

[1] Brackenridge's Case, 1 S. & R. 187 (1814).

and ultimately to the profession. Parliament, in order to remove any doubt as to the *bona fides* and intent of the regulations of 2 George II, twenty years later enacted a statute, that of 22 George II, c. 46 (1749), providing that such candidates for admission "who shall become bound by contract in writing to serve any attorney, shall, during the whole time and term of service to be specified in such contract, continue and be actually employed by such attorney or his agent in the proper business, practice or employment of an attorney."

These regulations are the origin of the American statutes and rules of court requiring clerkship and study in the office of a practising attorney.

The courts, both in this country and in England, whenever the question has been before them, have given a strict construction to the provision that a candidate for admission to the Bar shall have served a *bona fide* regular clerkship of the length and character required.

In 1798, in *Ex parte* Hill, 7 T. R. 456, a question of clerkship was before the Court of King's Bench on a rule to show cause why Hill should not be stricken off the roll of attorneys as not having served the five years' clerkship required prior to his admission. The rule was made absolute, Lord Chief Justice Kenyon saying:

"The question is whether he (Hill) has complied with the directions of the act requiring him to serve the person to whom he is bound, and to continue in such service for five years. . . . It is not enough to say that during that time he occasionally did business for Hughes, or attended the Hundred Court, which is holden once in three weeks. However hard the case may press on this individual, we must not make the law bend to our wishes, but must see that there has been such a service as the act requires."

Ashhurst, J., remarked:

"It is not fit that we should relax the rule of service required by the act, . . . If we break through that rule in one instance, I do not know what other line can be drawn or where we are to stop."

And Lawrence, J., also concurring, said:

"The object of the act was to prevent the admission of unfit persons to be attorneys, for which purpose it required that they should serve the masters to whom they were articled for five years."

And in 1808 the Supreme Court of New York, at a time when Kent was Chief Justice, held in a case reported 3 Johns. 261, that a preceptor's certificate that the applicant "had regularly pursued the study of the law under his direction and superintendence" was insufficient, and that the attorney ought to certify that the clerk had served his clerkship regularly in the office of such attorney. Again, a year later, the same court in A. B.'s application, 4 Johns 191, ruled, per Chief Justice Kent, that the certificate of the preceptor that A. B. had studied in his office (which was at a different place from that in which the attorney resided) under his direction and advice and as his clerk was not sufficient, and that "the clerk must be in the office under the personal direction of the attorney himself, and the establishment of different offices in different towns and counties by the same attorney was an evasion of the law and an imposition on the court."

In 1814 the Supreme Court of Pennsylvania in Brackenridge's case (1 S. & R. 187) refused on technical grounds to interfere with the decision of a Court of Common Pleas refusing to permit the examination of the applicant under a rule requiring the service of a regular clerkship within the state for the term of three years with a practising attorney or gentleman of known abilities, the proof in that case being a certificate by one of the justices of the Supreme Court that the applicant had served a regular clerkship within the state for three years under the said justice. The opinion of the court traced the origin of the rule back through the court's rule of 1792 to the statute of 2 George II, *supra*, and held that while the justice of the Supreme Court was undoubtedly a gentleman of known abilities, nevertheless his rank was too high for the service under him of such a clerkship as that contemplated by the framers of the rule.

In 1825 a question arose in the Court of King's Bench, *In re* Taylor, 6 D. & R. 428, as to what would satisfy the requisites of the statutes of 2 and 22 George II, *supra*, as to clerkship. Said Chief Justice Abbott:

"We are asked to allow this gentleman to fill up intervals of days, nay, even of hours, in various parts of every year of his clerkship during which he rendered no service to his master, and was actually bound by the duties of an office under government to devote all his time and all his service to the public. This it is impossible to allow without violating both the letter and the spirit of the acts of Parliament."

Three interesting cases from the Court of King's Bench in the matter of clerkships are reported in 10 Jurist (N. S.) 939—*In re* Smith (1843), *In re* Mills (1862) and *In re* Duncan (1864)—all of which evidence the intent to construe the requirements strictly, though equitably, for the best interests of the profession. In the latter case Chief Justice Cockburn said:

"Unquestionably the supervision and personal superintendence of the master is essential to good service."

In 1894 the Supreme Court of New York for the First Department, in a case not officially reported, but cited in Smith's New York Court of Appeals Practice, 5th ed., at p. 155, refused an application for examination for admission to the Bar because the candidate's registration certificate showed that he had entered the office of a practising attorney merely "as a student at law." The court said:

"The certificate was rejected by us because it did not seem to comply with the rules of the Court of Appeals. Throughout the whole of the rules the serving of a clerkship is spoken of. . . . Having in view the reason why the requirement of a practical clerkship was made of even graduates of law schools, it did not seem to us that being a mere student in an office was in any way a satisfaction of the requirement of the rule. The requirement of rule 5 is certainly a very simple one, and it would seem that it could easily be complied with. We have, however, found that there exist some persons who

make it a business to coach for examinations, and who give certificates of attendance as law students in their offices, the student not doing a particle of real clerical work, and they have given certificates of the kind under consideration."

In 1899, in a Pennsylvania case (Wilson's Application, 9 Pa. Dist. Rep. 102), the Common Pleas Court for the First Judicial District refused to permit four years of study of law as outlined in the obligatory course to be accepted in lieu of the service of the three years' office clerkship required by the rules.

And in 1902 the Supreme Court of Pennsylvania, when establishing a State Board of Law Examiners, promulgated a rule whereby the three years' period of preparation after registration, when passed other than in a law school, is required to be spent "by *bona fide* service of a regular clerkship in the office of a practising attorney" within the state, the words "*bona fide*" having been inserted for the purpose of removing any doubt or ambiguity as to the intent and meaning of the office service required.

It is well settled by the decisions, English and American, that the term "service of a regular clerkship" has a clearly defined meaning, and that it can only be complied with by a regular, continuous *bona fide* service during the entire period under the direction of the preceptor and in his law office. In no reported case has the question been more fully or more carefully considered than in the American one of Dunn's Application, 43 N. J. L. 359, argued in 1881 before the New Jersey Supreme Court, a case of such importance that it was reprinted in 1900 in 9 Pa. Dist. Rep. 107. In that case the court in the opinion filed per Dixon, J., declared:

"Whether an applicant has studied sufficiently is left, by our rules, to be determined upon the examination which he must undergo; and altogether aside from that question is the inquiry whether he has served the necessary clerkship. The substance of this prerequisite it is not difficult to perceive. A clerkship to an attorney imports the office of assistant to an attorney, an actual occupation in and about the attorney's

business and under his control. The services are to be rendered, not solely or mainly by the study of law books, but chiefly by attending to the work of the attorney under his direction. The purpose of the rule is that the clerk shall be actually engaged in the practice of law under the guidance of his master for the stated period, so that by direct contact with an attorney's duties he may acquire the skill and facility in the profession which are necessary for enabling him to protect and promote independently the interests that clients may afterwards commit to him. This is the sole object of requiring the clerkship to be served with a practising attorney. For the mere study of legal principles, a retired counselor or a professor would be an apter guide."

The court then declared that the applicant and his preceptor both seemed to have misconceived the purport of the rule, and said: "They have regarded study as equivalent to clerkship. We do not."

Germany, as well as England, makes practical knowledge and experience a *sine qua non* for admission to the Bar. There the profession is divided into magistrates (*Richter*) and practictioners (*Rechtsanwalte*), and no one can become a practitioner until he has qualified as a magistrate, and to do so the candidate for the Bar must spend three years in the study of law in a university, and after that devote three more years to service as a minor official in the courts or in the office of a practitioner.

Do not the best interests of the profession in America demand that a man who is either unwilling or who cannot afford to devote his energies during his preparation for call to the Bar to the study of law in a law school of recognized standing, shall be compelled at least to serve a *bona fide* clerkship in the office of a practising attorney during his period of preparation? This ought not to be a hardship to a poor boy ambitious to become a lawyer, for if he cannot afford a law school course he can study stenography and become a clerk in a law office,—that is always practicable; but there are also other positions in law offices for those who do not understand stenography. Such positions may not be as remunerative as

clerking elsewhere, working at a trade, or engaging in real estate or other business; but the prospective lawyer, if earnest and competent, may readily support himself, and he will be devoting all his energies to law, in an atmosphere of law, and in the end will be far more of a lawyer. Furthermore, if he is unwilling to do this, there is no good reason why so valuable a franchise as the right to practise should be conferred upon him. He should learn at the commencement of his course of study that "the law is a jealous mistress," and shape his course accordingly.

Aggressive objections to the service of *bona fide* clerkships have come in the past and are destined to come in the future, mainly from those acting in the interests of correspondence schools of law and night law schools. Far be it from me to underrate the splendid work which is being done by night law schools. They are a godsend to the ambitious clerk in a law office desirous of entering the profession, for they afford him an opportunity to have his course of study systematized, to have his knowledge of the theory of the law developed along rational consecutive lines; but so far as our profession is concerned such schools of law should be kept to their legitimate spheres of usefulness, as merely aids to law clerks or as a means of assisting those otherwise engaged who desire a better comprehension of the laws of their country. The moment they are allowed to have their courses accepted in lieu of the office clerkship or in place of the period of study in a standard law school, that moment they transcend their sphere of usefulness, and instead of being an aid to professional training they become an incubus destined in the long run to do far more harm to the profession than good.

This question is a broad debatable one of crucial importance to the profession, but I hold it as axiomatic that the best interests of the profession demand that young men seeking call to the Bar shall be compelled to give their *undivided attention* to the law during their *entire* period of preparation, either in a law school occupying the candidate's time exclu-

sively or in the office of a practising attorney, supplemented, as occasion permits, by such outside instruction as a night school, quiz masters and accessible moot courts afford, otherwise admission to the Bar will become a tail to some business kite, an advertisement wherewith to draw business to real estate, insurance, notarial or other office.

The men in the leading law schools devote *all* their time to the law during their entire period of preparation for call to the Bar, so also does the clerk in the office who cannot afford attendance at an approved law school, and it is no hardship to any to demand that all who wish to follow the calling of the law, to worship as votaries at the shrine of Justice shall devote their best energies to this end. The real estate man, the insurance broker, the manipulator of a collection bureau, all these, if desirous of securing the franchise to practise, should be compelled to prove their earnestness and their sincerity by giving up trade. Not to require a *bona fide* clerkship in the office of a practising attorney of those who do not attend approved law schools is to throw down the bars to an increase of that commercialism which is today the bane of our profession; and for the American Bar Association to devote so much of its energy as it does to the improvement of the law schools, while it leaves this other door to the profession wide open with no bar other than that of the examination, is to invite the bright, unscrupulous man of business to come forward and break in. Let us not wait until the profession is riddled and honeycombed with men fresh from the marts of trade, bringing with them ideals foreign to those of the law, but let us, ere it is too late, forever bar the portals to our profession against those who have not been trained in the environment of the law, and without which they can never catch its soul and spirit.

PROCEEDINGS

OF THE

SECTION OF PATENT, TRADE-MARK AND COPYRIGHT LAW.

Narragansett Pier, Rhode Island, August 23, 1905.

The annual meeting of the Section was held at the New Mathewson Hotel.

The meeting was called to order by the Chairman of the Section, Robert S. Taylor, of Indiana.

In lieu of a formal address, the Chairman spoke extemporaneously on the subject of "The Relation of Patent Lawyers to the Patent Law."

Charles H. Duell, of the District of Columbia, read a paper entitled, "Are Any Changes Desirable in Our Patent System"; and the Secretary (in the absence of the writer) read a paper by Joseph B. Church, of the District of Columbia, entitled, "Needed Reforms in Interference Procedure."

(*See both Papers at the end of these Minutes.*)

Edmund Wetmore, of New York, offered the following resolution:

WHEREAS, Under the provision of the Constitution that Congress shall have power to promote the progress of science and the useful arts by securing for limited times to inventors the exclusive right to their respective discoveries, the acts of Congress for the past century have uniformly authorized patents for any new and useful discovery in any art, machine, manufacture or composition of matter;

Resolved, That the Section of Patent, Trade-Mark and Copyright Law of the American Bar Association deprecates any legislation which will deprive inventors of any subject of invention enumerated in the statute of the benefit of the acts by exempting the whole or any part of any one of said subjects

from the operation of the patent laws, thereby discriminating against any class of inventors.

Which resolution, after being discussed by Arthur S. Steuart, of Maryland; Livingston Gifford, of New York; J. Nota McGill and Joseph R. Edson, of the District of Columbia; Robert S. Taylor, of Indiana, and Edmund Wetmore, was adopted.

Edmund Wetmore, of New York, moved that, if compatible with the Constitution and by-laws of the Association, the Chairman of the Section be requested to present the foregoing resolution to the Association proper, at the current meeting, for its approval.

The resolution was adopted.

Arthur S. Steuart, of Maryland, reported that, as a member of the Association designated for that purpose, he had, since the last meeting of the Section, attended a conference of various bodies, in New York City, to discuss the necessity of a revision of the copyright laws; that the meeting had proved most interesting and instructive; that other meetings were to be held; and that, in view of the responsibility involved, the Section recommended that the number composing the committee be increased to three.

(*See the Report on page 484 of this volume.*)

The resolution was adopted.

The Section then adjourned *sine die.*

MELVILLE CHURCH,
Secretary.

SOME NEEDED REFORMS IN INTERFERENCE PRACTICE.

BY

JOSEPH B. CHURCH,

OF THE DISTRICT OF COLUMBIA.

Although the result of many years' growth, Patent Office procedure in interference cases is by no means beyond criticism.

Predicated on statutory provisions under which the Commissioner's authority was absolute and final, the introduction of a superior appellate tribunal has had the effect of developing and accentuating inherent defects in the system tending materially to abridge the right of appeal given by the statute.

It is the purpose of this paper to direct particular attention to the anomalous conditions attending the trial of issues affecting the sufficiency and legality of the declaration and their effect upon appellate jurisdiction.

It is quite apparent that the Court of Appeals of the District of Columbia has experienced difficulty and embarrassment in attempting to reconcile the practice of the Patent Office in interference cases with established rules of procedure in the courts, more especially in relation to the determination of issues affecting the jurisdiction of the trial court and its power of review.

Thus, in Latham *vs.* Armat, 95 O. G. 232, while holding that "the question of patentability is not ordinarily regarded as open on appeal to this court in an interference case, but is to be regarded therein as conclusively established by the Commissioner of Patents," it refuses to commit itself to a principle which would absolutely deprive it of the power to inquire into the jurisdiction of the trial court, saying:

"It is true that there might be exceptional circumstances in a particular case whereby the question might be inexplicably

involved in the merits of the claim of priority and become incidentally a part of the final determination thereof."

Again, in Oliver *vs.* Felbel, 100 O. G. 2384, wherein the examiners-in-chief, in their decision on the issue of priority found the invention unpatentable, the court expressed grave doubt as to its jurisdiction to determine the issue of priority, holding that patentability was a necessary prerequisite to an interference proceeding, and, being jurisdictional, must affimatively appear to warrant a judgment of priority.

The court might well have gone further and found that right to make the claim, regularity in the declaration and interference in fact, equally with patentability, are essential prerequisites to a valid interference.

That these are strictly jurisdictional matters is fully recognized by the Patent Office in the rules respecting the declaration, the mode of raising issues attacking the declaration, and the provision for judgment of dissolution; and they are so held by the courts in strictly analogous proceedings under the interfering patent section.

It was never seriously doubted that interference in fact was a jurisdictional issue in suits under sec. 4918 R. S.; but, for a long period, the Circuit Courts refused so to consider the question of patentability. When, however, the matter was first brought before the appellate court (Palmer Pneumatic Tire Co. *vs.* Lozier, 90 F. R. 732) and the latter was asked to determine priority of invention with respect to an unpatentable matter, it promptly declined to do so. The trial court had awarded priority to the defendant, but the Court of Appeals, upon looking into the record of its own motion, and against the protests of the parties, finding the invention in issue not to be patentable, reversed the judgment of the lower court and ordered the bill dismissed for want of jurisdiction.

In a recent case (Allen, Commissioner of Patents *vs.* U. S. *ex rel.* Lowry *et al*, 116 O. G. 2253) the Court of Appeals of the District of Columbia being called upon to determine the statutory right of appeal of a party to an interference under

sec. 4909 R. S. held that "whatever right a party to an interference has to contest the right of his adversary to make the interfering claim, such right if denied is reviewable, if at all, upon the final decision of the question of priority, and such right of appeal as he has to have that question decided is to be considered on the hearing of the statutory appeals allowed from the decision of the question of priority by the examiner of interferences." Hence, in order to bring these jurisdictional questions before the Court of Appeals for review, there must be a final decision of the case by the examiner of interferences, as the only appeal allowed by the statute, to a party to an interference, is from such a final decision.

It is quite evident that the Patent Office is largely, if not wholly, responsible for this unparalleled situation, whereby a party to an interference, being accorded a right of appeal on the question of priority of invention, is prohibited from attacking in the appellate court the jurisdiction of the trial court by showing that the subject matter is not patentable or that there is no interference in fact upon which to found a valid judgment of priority.

In conferring upon "every party to an interference" the right of appeal from "the decision . . . of the examiner in charge of interferences," Congress must be presumed to have had in contemplation the fundamental rule that "the right and duty to decide questions of jurisdiction rests in the first instance in the court whose powers are invoked" and to have intended that such questions should be decided by the examiner of interferences.

This right of appeal was given in the Act of 1870 that created the office of examiner in charge of interferences.

Prior to and at the time of the passage of this act interferences were determined by primary examiners designated by the commissioner for the purpose, and the examiners-in-chief were given jurisdiction "to revise and determine in like manner" (on written petition) "upon the validity of the decisions of examiners in interference cases" (Act of 1861).

The examiner designated to take charge of the interference tried all issues affecting jurisdiction and merits, the rules in force at the time providing, "*If* an interference has been *properly declared*, it will not be *dissolved* without judgment of priority," etc., from which it would appear that the propriety of the declaration could be put in issue, and if found adversely, the judgment would be dissolution. Under this rule, both the examiners-in-chief and the Commissioner exercised appellate jurisdiction over decisions on points affecting the jurisdiction of the trial court, as appears from the action of the Commissioner in Kafer and Gould *vs.* Dennison, C. D. 1869, p. 14; Barton *vs.* Babcock *et al*, *ibid*, p. 67, and Sherwood *vs.* Searles, *ibid*, p. 112.

Under the rules immediately succeeding the passage of the Act of 1870, jurisdiction over motions for dissolution was divided between the examiner of interferences and the primary examiner, the latter having jurisdiction of motions made before testimony taken. But, even so, the Commissioner on appeal maintained the fundamental right to inquire into the jurisdiction of the trial court.

Thus, in Jenkins & Norton *vs.* Putnam, C. D. 1870, p. 156, Commissioner Fisher laid down this rule:

"While the office rules provide that 'if an interference has been properly declared it will not be dissolved, without judgment of priority,' yet the question of the regularity of the declaration of the interference is always open for the consideration of the examiner of interferences, the board or the Commissioner. If there is no valid contest, it is a waste of the time of the office and of the parties to wade through a mass of testimony tending to prove that which will avail neither party when proven."

And he therefore affirmed the decision of the examiner of interferences and of the board dissolving the interference.

By the rules of April, 1875, exclusive jurisdiction of all motions to dissolve was conferred upon the tribunal having jurisdiction at the time.

As the writer knows, from personal experience, objections were made to this practice both within and without the office, on the ground that in transferring the trial of these jurisdictional matters from the primary examiner, who was familiar with the art and the circumstances surrounding the declaration, to the examiner of interferences, who was presumably less well equipped to deal with the questions of patentability, not only was an additional burden placed upon the examiner of interferences, but also upon the parties, who were compelled to make a much more elaborate showing of the prior art.

Purely as a matter of convenience, the rules of November 1876, reinstated the primary examiner's jurisdiction on motions to dissolve; and so it remained until December, 1[illegible] jurisdiction of motions affecting the question of interfe[illegible] fact was conferred on the examiner of interferences [illegible] remained until April, 1882, when it was again [illegible] primary examiner.

Under the present system, all matters affe[illegible] and right to claim are given *ex parte* [illegible] primary examiner, and, being decided fa[illegible] *in camera*, determines the question of interfe[illegible]

Having reached a favorable conclusion on al[illegible] matters, he prepares the declaration and forwa[illegible] the examiner of interferences, who [illegible] for filing statements, issues the notice and [illegible] diction.

This act on the part of the examiner [illegible] although nominally [illegible] declaration of the interference, [illegible] vested sole with parties, [illegible] and is analogous to the [illegible] [illegible] in an equity case.

But [illegible] the [illegible] affecting its jurisdiction, [illegible] issues, such as [illegible]

claim, correctness and sufficiency of the declaration, and identity of invention, shall be heard and determined by another and independent tribunal.

The vice of this is obvious. In the first place, the issues, now for the first time raised in an *inter partes* proceeding, are made triable, before a prejudiced tribunal, the examiner at whose instance the controversy originated; in the second place, it substitutes for a single tribunal for the trial of such issues a multitude of tribunals, with the consequent divergence in practice, procedure and rules of interpretation; and, in the third place, it tends to restrict the statutory right of appeal by withholding from the examiner of interferences power the render decisions on jurisdictional issues.

But this is not all. Originating *inter partes*, and triable before a tribunal already committed on the subject, the decision of that tribunal is made final on questions of patentability and right to claim, when adverse to the motion and favorable to the applicant whose claim is involved (rule 124), no appeal being permitted the moving party in such case; but, if the decision on these issues is in favor of the moving party his adversary is given an appeal to the examiners-in-chief. On the issue of interference in fact an appeal is allowed to the Commissioner, but none to the examiners-in-chief.

Mr. Justice Duell, speaking for the Court of Appeals of the District of Columbia, in Allen *vs.* Lowry, 116 O. G. 2253, very justly criticises this complex system of interlocutory procedure, saying:

"From the simple and summary mode first adopted for determining the question of priority of invention, that proceeding, by system of Patent Office rules, has grown to be a veritable old man of the sea, and the unfortunate inventor who becomes involved therein is a second Sinbad the sailor. It is known to all who are familiar with the practice in interference proceedings that by motions, petitions and appeals of every conceivable character that the ingenuity of the skilled attorney can devise, interferences can be and are prolonged for years, to the injury of the public, and often to the financial ruin of the parties."

The features of the interference procedure complained of are, as Mr. Justice Duell observed, creatures of the rules, not of the statute, and the Patent Office is wholly responsible therefor.

In the writer's opinion, the evils complained of are incident to the investing of the primary examiner with authority to determine jurisdictional issues in interference proceedings, instead of placing that power where it logically belongs, *i. e.*, with the examiner of interferences, so that decisions pertaining to this most vital element of the interference shall become an essential part of that proceeding and be reviewable by the appellate tribunals.

The remedy is at once simple and complete, and it is within the power of the Patent Office to apply it without additional legislation on the subject.

It is this: Restore to the examiner of interferences exclusive authority to determine all jurisdictional issues, such as questions involving patentability of the subject matter, the right of an applicant to make the claim, regularity in the declaration and interference in fact.

Abolish all interlocutory appeals on these issues, both to the Commissioner and to the examiners-in-chief.

Adopting the procedure of the equity courts in such cases, provide for the trial of jurisdictional issues on motion, with notice, either before testimony taken or at final hearing, in analogy to like proceedings under demurrer, plea or answer. A decision sustaining jurisdiction, if rendered on motion before testimony taken, should require that the cause proceed to final hearing; if rendered after final hearing, it should accompany judgment on the merits. In either event, the decision on the jurisdictional issue will be merged in the final judgment.

A decision adverse to jurisdiction should be followed by an order (decree) of dissolution (dismissal).

In this way all contentions of the parties would be embodied in a final decision, disposing entirely of the controversy, and would be the subject of appeal under sec. 4909 R. S.

The reversal of a judgment of dissolution would be accompanied by an order sending the case back for hearing on the merits; just as an appellate court, on reversing the decree of the trial court, dismissing a suit for want of jurisdiction, remands the case with directions to proceed to a hearing on the merits of the cause.

As a substitute for the interlocutory appeals now provided, and in order to obtain the benefit of the primary examiner's supposed familiarity with the art to which the invention pertains, the examiner of interferences should be given power to refer, at his discretion, jurisdictional issues to the primary examiner for a preliminary hearing, the latter, after the manner of a master in equity, reporting his findings and conclusions to the examiner of interferences. Exceptions may be taken and filed to the primary examiner's report, and a final hearing thereon had before the examiner of interferences, who shall thereupon render a decision on the issues raised. If no exceptions are taken to the primary examiner's report, and as to matters not excepted to, where exceptions are filed, the findings of the primary examiner on questions of fact should, ordinarily, be adopted by the examiner of interferences.

The introduction of a system such as that outlined above would not seriously conflict with the rules at present in force, but, with slight modifications and amendments, they could readily be rendered compatible therewith.

Among the obvious advantages of the proposed changes may be mentioned the following:

By eliminating the entire system of interlocutory appeals, without fee, respecting jurisdictional matters, not only will the labors of the Commissioner be lightened, but the incidental delays and expense to the parties will be avoided.

The legitimate relationship will be established between interlocutory and final decisions, by providing that both shall emanate from the same authority, *i. e.*, that whose jurisdiction on the issue of priority is invoked, the interlocutory merging into the final.

The right of appeal, under sec. 4909, and the authority of the Court of Appeals to inquire into matters affecting the jurisdiction of the trial court—the examiner of interferences—will be assured, by reason of the fact that the decision of jurisdictional matters will be placed in the hands of the examiner of interferences, and, becoming merged in the final decision on merits, will constitute part of his decision within the letter of the statute.

It may be thought that the reference of issues involving patentability to the examiner of interferences as herein proposed will conflict with the statutory jurisdiction of the primary examiners over these questions; but such is not the case. While the statute (sec. 4893) is imperative that "the Commissioner shall cause an examination to be made" and provides (sec. 4903) that "notice shall be given whenever, on examination, any claim is rejected," it does not designate by whom such examination shall be conducted. But for the provisions respecting appeals, the Commissioner's authority to refer the case to any employee for examination of the question of patentability would be unquestioned.

However this may be, the appeal section (4909) impliedly, if not directly, requires the final action to be taken by either the primary examiner or by the examiner of interferences. Its provisions are:

"Every applicant for a patent or for the reissue of a patent, any of the claims of which have been twice rejected, and every party to an interference, may appeal from the decision of the primary examiner, or of the examiner in charge of interferences in such case, to the board of examiners-in-chief, having once paid the fee for such appeal."

It is entirely consistent with this language that the primary examiner should reject, in *ex parte* cases, and the examiner of interferences in *inter partes* or contested cases. In either event the right of the defeated party to his appeal would be preserved, the only difference being that, in *ex parte* cases, two rejections would be necessary to perfect the right of appeal, whereas, in the other, a decision of the examiner of interferences adverse to the appellant would suffice.

ARE ANY CHANGES DESIRABLE IN OUR PATENT SYSTEM?

BY

CHARLES H. DUELL,

OF THE DISTRICT OF COLUMBIA.

The framers of our Constitution were wise and far-seeing men, but when, almost as an afterthought, they conferred upon Congress the power "to promote the progress of science and the useful arts by securing for limited times to authors and inventors the exclusive rights to their respective writings and discoveries," they little thought that in that short paragraph they were laying the foundation for a system which has done as much, if not more, for the material advancement, not only of this country, but of the entire civilized world, as any single benefit conferred by written authority upon mankind since the signing of Magna Charta.

Washington was quick to grasp the possibilities to flow from the exercise of the power thus conferred, and in his first address to Congress said, "I cannot forbear intimating to you the expediency of giving effectual encouragement, as well to the introduction of new and useful inventions from abroad as to the exertions of skill and genius at home."

The statute of 1790 followed and was succeeded by that of 1793, and later additions were made thereto, but it was not until the act of 1836 went into force that what can be fairly called the "Examination System" had its birth.

The examination principle is the keystone of the American patent system. Here, among its friends, it would be a work of supererogation to eulogize a system of grant of patents based upon an examination as to utility and novelty. Equally unnecessary is it at this time to enumerate the vast benefits that have flowed from it and to enter the lists as its defender.

We can point to it with the same pride as did Daniel Webster to Massachusetts in his famed reply to Hayne.

Yet we cannot shut our eyes to the fact that in the course of time defects have developed, and that sooner or later the examination system may be dragged down by the weight of abuses that have, like the octopus, attached themselves to it too strongly to be shaken off. Our patent system has enemies, and, while today they are silent, it needs only a change in conditions to arouse them. Many of us have not forgotten the attacks made upon it in the Granger days of the late seventies and early eighties, the days of the "Drive Well," the "Barbed Wire Fence" and the "Hip Roof Barn" patents. A fortunate change of conditions, the expiration of those patents and the "reissue" and similar decisions of the Supreme Court, all combined, then saved it from overthrow, but when other dangers menace it far better is it to consider whether any remedies are needed, and how best they can be applied, than to wait until the storm becomes a gale before reefing the sails and throwing overboard the Jonahs.

I well remember how startled I was in the summer of 1884 when told by a friend, who was in closest personal relations with Mr. Cleveland, that Mr. Hendricks had labored long and hard with Mr. Cleveland to induce him, in his letter of acceptance of the Democratic nomination for the presidency, to come out strongly and vigorously against the patent system. The "stand-patters," who fear the possible result of any attempt to eliminate the unfair practices that are at times resorted to under the cover of an examination, may be right in deprecating any agitation of the subject or modifications and changes in the system even though they be for the better. I would be the last to urge any changes were it shown that if questions of change were brought before Congress any of the fundamental principles of the system would be jeopardized. I do not so believe, and the purpose of this paper is only to point out some of the evils, as I view them, that have developed in the system, to make some suggestions looking to their elimina-

tion, and above all to invite intelligent consideration and discussions by the friends of the system of the questions raised.

I will have time to refer only to what to me seem to be the main imperfections which it has taken time to develop. These are:

First. The inconclusiveness of the present examinations.

Second. The multiplicity of amendments and office actions which permit a virtual extension of the monopoly through delay in the issue of the patent.

Third. The multiplicity of claims.

Fourth. The undue number of appeals.

Fifth. The unsatisfactory determination of the question whether the new thing is an invented improvement.

Sixth. The complex and time-absorbing method of solving the question of priority of invention.

All of the above are more or less interwoven, and similar remedies, if remedies be needed, would apply in general to all, so it becomes somewhat difficult to separate them in presentation.

Referring first, however, to the inconclusiveness of the result of the present examination, it must be admitted that no prudent man who knows anything about the conditions surrounding the grant of a patent, in its purchase, or on embarking in manufacturing under it, pays any considerable sum therefor or invests any large amount in the enterprise without first having had made an independent validity search. In other words, he cannot safely rely upon novelty having been proven by the issue of the patent. Equally true is it that the presumption of novelty arising out of the issue of a patent has in ordinary litigation largely been reduced to a platitude. All this, doubtless, is not the fault of the system, but is due to an imperfect carrying out into practice of the theory upon which it is based. Largely it is due to the conditions under which the examination is made, and the best remedy is to be found in the employment of a larger examining force, which shall be made more permanent by the payment of adequate

salaries; by the perfection of the classification system; by adequate room and other increased facilities. Congress grants spasmodic relief in these directions, but the ever-widening field of the prior art and the increasing number of applications makes inadequate today the sufficiency of yesterday. To many the task of providing for a thorough office examination is as hopeless as would be the attempt to dam the Nile with bulrushes. Today, with about 800,000 patents issued in this country, not to mention the great number of foreign patents, with nearly 18,000 applications awaiting action by the Patent Office, a threefold increase in five years and the largest number ever known to be awaiting such action, and with probably 50,000 applications awaiting action by the attorneys, it looks as though the flood of invention might at no distant day submerge our present examination system unless it be modified. To those who fear this many suggestions of modifications that shall preserve a system founded on examination suggest themselves. How best the main features of the present examination system can be preserved may soon become a question of vital importance.

One of the plans which seems to be most feasible and which would remedy some of the other defects which I shall note is this: The application when filed to be taken up for examination which should at once go to the merits as well as to form, and should and could be made more thorough than at present because of the fewer examinations to be made. To this office action the applicant should file a complete answer, and, if the objections raised by the examiner were not acquiesced in, a second action should be had, and to this a reply by the applicant. The application, as it stands after the applicant's second reply, should then pass to patent, unless the applicant should elect to take a prompt appeal to the examiners-in-chief in order to have a ruling by an appellate tribunal upon the points of difference between him and the examiner. The applicant to be permitted, but not required, to modify his application to meet the views of the examiners-in-chief. Under such an

examination the issued patent should bear on its face sufficient data to give to the public the substance of what would be disclosed by an examination of the file wrapper.

The advantages arising from such an examination are these: The examiners, having fewer examinations to make, could give more time to them. One thorough examination is worth half a dozen hastily made ones. The applicant would not be forced to cancel claims which he believed he was entitled to as, in fact, for various reasons, he often now is. Patents would issue at an earlier day as a multiplicity of cross-actions would be obviated and the number of appeals brought within bounds. The presumption of novelty would not be materially lessened, and the later validity search would be no more laborious.

Second. No one can successfully question that it was the intention of the framers of the Constitution, and that of Congress, in formulating the various patent statutes, to require inventors, in return for the limited monopoly conferred upon them, promptly and without undue delay to apply for and have issued their patents for their various inventions. The Constitution indicates this in granting the monopoly for a "limited" period and the statutes clearly evidence it in limiting the time of use before applying for the patent, and the time in which objections made by the Commissioner of Patents may be replied to. That this intention has been and may be nullified is known to all familiar with Patent Office practice. An application may be kept pending in the office for substantially as many years as desired. It is easy to draw claims that are not allowable and after rejection to wait the statutory period of one year before amending, and by amendment cause a second rejection, and so on *ad infinitum.* That this abuse is not greater lies in the fact that most applicants are anxious to secure their patents, believing, in their innocence, that they have tapped the rock from which will flow the golden stream. Those who have had experience, however, know that after filing their applications they can manufacture for years without taking out their patents and maintain a practical monopoly, for others hesitate

to copy a device, or to practice a process, which carries some mark indicating that applications for patents thereon are pending. Especially is this the case where the manufacturer is financially strong. Therefore, it results in a practical extension of the monopoly and the nullification of the constitutional provision that the monopoly is for a limited period. The evil is not all with the applicant, for he can now truthfully say that his application often waits months after it is filed before the first examination is had and often an equally long time after an amendment is filed. While there should be a larger force of examiners, neither that nor any limitation of time for replying to an office objection will provide the needed remedy. Two remedies suggest themselves, the first being that of the change in the method of examination before suggested. The second being that of dating all patents from the application date. The latter plan, of course, would be too drastic unless the term was extended so as to permit a reasonable time for the necessary delay in perfecting the application, and a somewhat longer time if the application become involved in an interference. The Supreme Court startled the patent world some twenty-five years ago by its "reissue" decision. Sometime it may render an equally sweeping decision in reference to patents that have been unduly delayed in their progress through the Patent Office. Self-interest, as well as fair play, should lead to some legislation looking to the uprooting of the evil referred to.

Third. I will refer but briefly to the third point where our examination system has developed a custom which should be changed and which can be, to a great extent, by the application of a simple rule and without legislation. For this evil the courts are not free from blame, as their construction of claims, looking more to phraseology than to substance, has led solicitors to pay too much attention to "word painting" in their desire to forestall any refusal of the courts to construe the claims of a patent so as to reach the infringement. The employment of variant language to express the same idea, to

cover the same construction, is therefore to some extent warranted, but in the course of time it has been carried to an unwarranted length and should be discontinued. But there is a class of claims for the allowance of which there is little or no justification and which can and should be put an end to. I refer to that class of claims which are built up like a house of cards. If a claim of, say, a combination of three elements is patentable, there is no excuse for granting additional claims for additional elements which claims would not be patentable to a later applicant, or which would not be patentable to the applicant making the claims if the combination of the three elements was disclosed in the prior art; in other words, such claims as a court would hold void if the combination of the main claim was shown old by the prior art.

Fourth. That the number of appeals now allowed is beyond reason is generally admitted. Furthermore, it is incongruous in that an appeal is permitted from a tribunal of three to a single person. It is also another weapon in the hands of the applicant seeking undue advantage to aid him in delaying the issue of his patent. By its judicious use he can hold his application from issue for several years. Some years ago I suggested a remedy which, however, did not meet with sufficient approval to warrant legislative action. I am still, however, of the opinion that the idea is a good one. In brief, it was transforming the examiners-in-chief into assistant commissioners and having thus a final tribunal composed of five (the commissioner, the assistant commissioner, now provided by law, and the three new assistant commissioners making up the tribunal). Appeals would be taken directly from the primary examiner and the examiner of interferences to this tribunal whose decision, except in interferences, should be final. Another remedy lies in the adoption of the examination plan first suggested.

Fifth. The next point to which I have referred relates to that question which confronts the Patent Office and courts in the class of minor improvements which often prove of the

greatest commercial value. At the present time the examiners of the Patent Office pass upon this question as in turn do the courts. The question whether the *new* thing for which patent is sought required invention is one difficult of solution, and would be were the question in all cases to be passed upon by one tribunal. It is not strange, therefore, that with over forty different principal examiners in the Patent Office and with the many federal judges, that there is little uniformity in the decisions of the Patent Office or of the courts. It is doubtless true that many claims for such improvements are rejected which, could they come before the office or the courts in the light of extended commercial use, would be sustained. The remedy of appeal in the Patent Office does not provide a suitable remedy, for the applicant is often unable to carry the burden of successive appeals, and being without an issued patent is unable to interest that timid partner familiarly known as capital. For the reason that the question is always open for review by the courts, it would seem that little is gained by a double trial of the question, one of which when it decides the question affirmatively is inconclusive, and when its decision is in the negative deprives the inventor of his only chance. The change in the method of examination first suggested would obviate the injustice of the negative action by the office, and were there established a patent court general principles might possibly be formulated that would afford a guide for the profession in determining whether a suit involving the question of invention could be successfully maintained.

Sixth. As the last evil, for truly it is an evil, which I have specified is to be the subject of a paper to be read by a member of the Association who is most competent to deal with the subject and whose familiarity with it, both from a Patent Office experience and from practice as an attorney before the office, renders whatever he may say worthy of the most careful consideration, I will content myself with characterizing it as the most complex and time-absorbing system of circumlocution and how-not-to-do-it rule-created procedure ever bred by a system.

Permit me, in passing, to repeat what the Court of Appeals of the District of Columbia recently said in referring to interference proceedings: "From the simple and summary mode first adopted for determining the question of priority of invention, that proceeding by a system of Patent Office rules, has grown to be a veritable old man of the sea, and the unfortunate inventor who has become involved therein is a second Sinbad the sailor. It is known to all who are familiar with the practice in interference proceedings that by motions, petitions and appeals of every conceivable character that the ingenuity of the skilled attorney can devise, interferences can be and are prolonged for years to the injury of the public and often to the financial ruin of the parties."

I am aware that "systems" are delicate creations and must be handled with great care and that much danger lurks in tinkering with them. Doubly so is it with a system which has remained practically the same for nearly seventy years and which in that long time has developed so few imperfections as has our patent system. A patent-granting system based on examinations is the best that can be devised. I am equally aware, however, that as conditions change old methods have to be modified to meet them. It is better to bend than to break. It is better to have a perfect partial examination system than an imperfect complete examination system. At all events, fair and open discussion will do no harm. For this purpose I have written out the thoughts that have occurred to me and submit them for your consideration.

PROCEEDINGS

OF THE

FIFTH ANNUAL MEETING,

ASSOCIATION OF AMERICAN LAW SCHOOLS.

Narragansett Pier, Rhode Island,
August 22, 1905, 8.30 P. M.

The fifth annual meeting of the Association of American Law Schools convened at Narragansett Pier, Rhode Island, on Tuesday, August 22, 1905, at 8.30 P. M., President Nathan Abbott, Dean of the Leland Stanford University Department of Law, in the Chair; W. P. Rogers, of Cincinnati Law School, Secretary.

The President: Gentlemen, the first business in order will be the calling of the roll. The Secretary will call the roll of the members of the Association, and as the name of each member is called the delegate or delegates representing it are requested to arise and give their names.

The roll of membership was then called and showed that of the thirty-seven members of the Association the following schools (twenty-six in number) were represented by the delegates named:

Baltimore Law School: Charles Morris Howard, Alfred S. Niles.

Boston University Law School: Harvey N. Shepard.

Law School of the University of Chicago: James Parker Hall.

Cincinnati Law School: Lawrence Maxwell, Jr., Francis B. James, W. P. Rogers.

Columbia University School of Law: William C. Dennis.

George Washington University Law School: Robert M. Hughes, William R. Vance, H. St. George Tucker.

Cornell University College of Law: Frank Irvine.

Harvard University School of Law: Eugene Wambaugh, Samuel Williston, Joseph H. Beale, James Barr Ames.

Illinois College of Law: Ernest B. Conant.

University of Illinois College of Law: Elliott J. Northrup.

Indiana University School of Law: George L. Reinhard.

State University of Iowa College of Law: Charles Noble Gregory.

Drake University College of Law: Carl B. Dudley.

University of Kansas School of Law: James W. Green.

University of Maine School of Law: William E. Walz.

University of Michigan Department of Law: James H. Brewster, Horace L. Wilgus, Henry M. Bates.

University of Minnesota College of Law: Alfred F. Mason.

University of Missouri Law Department: V. H. Roberts, Selden P. Spencer.

Northwestern University Law School: Frederic C. Woodward.

University of Pennsylvania Department of Law: William E. Mikell, William D. Lewis, Francis A. Bohlen.

Pittsburgh Law School: James C. Gray, A. M. Hunt.

Stanford University Department of Law: Nathan Abbott.

Syracuse University College of Law: James B. Brooks.

University of Tennessee Law School: Henry H. Ingersoll.

University of Wisconsin College of Law: H. S. Richards, Burr W. Jones.

Yale University Law School: George D. Watrous, James H. Webb, Henry Wade Rogers.

The President: The next business in order is the approving of the minutes of the last meeting.

The minutes were approved as printed.

The President: Next in order is the appointment of some special committees, namely, an Auditing Committee and a Committee on Nominations. I will appoint as the Committee

on Nominations: George L. Reinhard, H. H. Ingersoll and Henry M. Bates. Owing to the change in our practice as to holding our meetings, it will be necessary for this committee to retire now and report as soon as may be convenient.

I will appoint as the Auditing Committee: Elliott J. Northrup, Alfred F. Mason and Alfred S. Niles. It is desirable that this committee should also report as promptly as possible.

We will now have the report of the Secretary-Treasurer, which I will ask our Secretary to read.

W. P. Rogers, of Ohio, Secretary-Treasurer: The undersigned, as Treasurer of the Association of American Law Schools, respectfully submits the following report of his receipts and expenditures:

Balance on hand	$500 13	
Collected during the year, membership fees	300 00	
		$800 13

I have paid out:

Stamps	$5 00	
Dando Printing Co.	47 00	
Joseph H. Beale	35 00	
H. S. Richards	68 46	
Nathan Abbott	114 99	
W. P. Rogers	49 50	
James Barclay	7 00	
Stenographic work	12 00	
		$338 95
Balance on hand		$461 18

W. P. Rogers,
Secretary-Treasurer.

On motion, the report of the Treasurer was received and referred to the Auditing Committee.

The President: Next in order is the consideration of reports. Inasmuch as in the report of the Executive Committee there is a resolution concerning a legal publication for the Association, and inasmuch as last year, or the year before, a special committee was appointed on practically the same subject, the Chair is not clear which report to consider first. It is merely

a question of convenience. It seems to the Chair that the wisest thing to do is, first, to ask the Association to determine whether to take up at this point the report of the special committee appointed under the resolution which appears on page 4 of the minutes of the last meeting.

Alfred S. Niles, of Maryland: I move that the Association take up first the report of the Executive Committee.

The motion was seconded and adopted.

The President: How shall we consider this report; as a whole or by sections?

James Barr Ames, of Massachusetts: Let us take it up piecemeal.

The President: We will proceed in that way, then. I will ask the Secretary to read the first section of the Executive Committee's report.

The Secretary (reading): The application for membership to the Association from the Washburn College School of Law (Kansas), which was continued last year, was again taken up by the committee. Applications for membership were also presented by the College of Law of the University of Nebraska and by the School of Law of Trinity College, North Carolina. After an examination of the evidence presented, the committee concluded that the requirements for admission had been fulfilled by each of these applicants, and therefore recommends that they be admitted to membership to the Association.

James Barr Ames: I move that the three schools named be admitted to membership to this Association.

The motion was seconded and adopted.

The President: The Secretary will now read the next section of the report.

The Secretary (reading): The committee, having further considered the matter of a quarterly legal periodical, determined again to submit to the Association for its action thereon the resolution presented at the last meeting of the Association, which is as follows:

Resolved, That the Association of American Law Schools recommends to the American Bar Association the establishment of a quarterly legal periodical of high character and of general interest to the legal profession, of which, if desired, the Association of American Law Schools will undertake the editorship.

Henry H. Ingersoll, of Tennessee: May I ask if there is anything of a practical nature offered to us that will obviate objections hitherto made as to the financial responsibility, so that, if we undertake this thing, we will be sure that it will be a financial success and not a burden upon the Association?

Joseph H. Beale, of Massachusetts: Before we proceed to discuss this section, Mr. President, is it not well to ascertain if there are present any representatives of the schools that we have just admitted?

The President: The Chair thinks the suggestion a good one, and will ask the Secretary to inform us whether there are any representatives of those schools present.

The Secretary: The Washburn College School of Law, Kansas, is, I believe, represented by Ernest B. Conant. The College of Law of the University of Nebraska is represented by George E. Ayers. The School of Law of Trinity College, North Carolina, is represented here by S. F. Mordecai.

I think, in response to Mr. Ingersoll's question, it should be stated that this resolution does not apply to the journal about which he inquires. There was a committee appointed to investigate the question as to the expense concerning the other journal, and the committee is represented here, I think, by Mr. Beale. They are to report upon that. This resolution, if the Association will observe, is simply that we recommend to the American Bar Association that there be established a certain journal. As a matter of fact, there are two journals here in question. The first is one to be reported upon by Mr. Beale's committee, and the other is the one mentioned in this resolution, which is simply to recommend to the American Bar Association the establishment of an additional journal.

William D. Lewis, of Pennsylvania: I think, before we vote on this report of the Executive Committee, we ought to have before us the report of the special committee, because, while this is a different magazine to that recommended by the special committee, they may have some relation to each other. I, therefore, move that we postpone the consideration of this portion of the report of the Executive Committee until we hear the report of the special committee.

The motion was seconded and adopted.

The President: Will the special committee report?

Joseph H. Beale: I supposed Mr. Lewis meant to take those things up after the rest of the Executive Committee's report is disposed of.

Alfred S. Niles, of Maryland: No, let us have it now. I move, Mr. President, that the special committee report now.

William E. Walz, of Maine: I second that motion.

The question was put upon this motion, but the result being in doubt a division was ordered, whereupon the motion was lost by a vote of 9 to 8.

The President: The Secretary will proceed with the reading of the report of the Executive Committee.

The Secretary (reading): To facilitate further and to make practical the investigation of the question of strict compliance by members of the Association with Article VI of the Articles of Association, the committee recommends to the Association the adoption of the following:

Resolved, That the Executive Committee, acting in pursuance of its duties under Article VI of the Articles of Association, have authority to examine all the books and records of every member of the Association, including the records and examinations for admission and the answers of students to all questions put in examinations for the degree during the preceding year, and for this purpose may appoint competent and impartial agents.

Resolved, That for the purpose of making such examination practicable, all schools, members of this Association, shall keep a permanent record of the admission of every student to

the school and of his qualifications for admission, and shall preserve for at least one year the written answers of students in all examinations required for the degree.

The President: What action will the Association take with reference to this resolution?

Horace L. Wilgus, of Michigan: I would like to inquire as to the meaning of the last part of that resolution; whether it is proposed that every paper of every student that is in a three years' course shall be preserved from the beginning of his course until one year after the completion of the course?

The President; I think a reading of the last two lines of the resolution will answer the question of the gentleman from Michigan.

George L. Reinhard, of Indiana: I would like to ask for a little further information on that subject. Some law schools have final examinations covering all the subjects the student has taken throughout his entire term, while others have their final examinations at the close of the particular subject that is being studied. For example, in some schools a final examination in agency takes place just before graduation, although agency is a first year subject and was taught in the first year, while in other schools the final examination in agency takes place when the subject of agency has been completed, which is generally at the end of the first year. Now, I can see that it would be a very easy thing to preserve the examination papers for the inspection of the committee when all the final examinations are given just before graduation, whereas, if any of the final examinations were given long before the end of the law school course it would be a much more difficult thing to preserve the papers. If it is the intention of this resolution to require all the examination papers to be preserved which a student may have prepared during his entire course, I submit that it would be a somewhat difficult thing to do. At least we should have the explanation of the Executive Committee as to [illegible] this resolution, whether it only

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applies to examinations taken just before graduation or to all of them.

Then there is another question that I should like to ask for my own information, and that is on the matter of entrance requirements. In our school the law faculty does not pass upon the entrance qualifications of a student to the school as a candidate for the law degree. We have the same requirements as those necessary for entrance to the freshman class of the university proper, and the question of whether a student has complied with such requirements is determined by the university authorities. Now, when the committee from this Association applies to the law school faculty for the privilege of examining the credentials of any student who has been admitted to the school as a candidate for the law degree, it will be impossible for us to comply with their request, and we could only refer them to the university authorities. Hence, my question is this: Would this Association have any power to compel the university authorities in such cases to furnish the evidence they have in their possession as to the fitness of the student to enter the law school? I am certain that in the institution with which I am associated your committee would meet with no obstacles in obtaining these credentials from the university officers, but would this be true of all other institutions who have similar entrance rules? I heartily agree with the principle embodied in the resolution and in the recommendation of the committee, but whether it is practicable to enforce it in all instances in the form in which it is presented, I confess, I have serious doubts; but, perhaps, some member of the committee can give a satisfactory explanation.

Joseph H. Beale: I suppose the committee had in mind not matters as to which inequality has been displayed, in the first place, as to the qualifications for admission, but that the law schools should have some regard to the reason why the student was admitted. Where there is a practice, such as Mr. Reinhard speaks of or such as there was at Chicago while I was there, of the university authorities passing on the qualifica-

tions in the first instance, they send, I suppose, to the dean of the law school a certificate stating that the student has been credited with certain qualifications. That would be the paper which would be referred to by this resolution, I take it, and that paper should be preserved in the law school ready to be shown to the Executive Committee. As to the examination papers this resolution means, as I take it, that whenever the passing of any examination at any time during the course is required of a candidate for a degree the answers to the questions in that examination shall be kept for one year after that examination; not, as Prof. Wilgus suggested, for a year after the examination of the student, but for a year after passing the examination.

Alfred S. Niles, of Maryland: Suppose this is the last examination, then do you keep the papers for a year after the student's graduation?

Joseph H. Beale: Yes, sir.

The President: Are there any further questions in regard to this resolution?

Alfred S. Niles: I move that the resolution be adopted.

The motion was seconded and the resolution was adopted.

The President: The Secretary will now read the next section of the report of the Executive Committee.

The Secretary (reading): The committee recommends that section 1 of Article VI of the Articles of Association be amended so that it will read as follows:

1. It shall require of all candidates for its degree at the time of their admission to the school the completion of a four years' high school course, or such an equivalent as would be accepted for admission to the state university or to the principal college or university in the state where the law school is located; provided that this requirement shall not take effect until September, 1907.

George L. Reinhard: I move the adoption of that recommendation of the committee.

James W. Green, of Kansas: I second that motion.

Lawrence Maxwell, Jr., of Ohio: What does that supplant? What is the rule now?

The Secretary: If I may answer the gentleman's question, section 1 now reads as follows: "It shall require of candidates for its degree the completion of a high school course of study or its equivalent." That is the section that we amended, making it a four years' high school course instead of simply a high school course.

Elliott J. Northrup, of Illinois: May I ask a question as to why the phrase is used "or such an equivalent as would be accepted for admission"? I am at a loss to understand whether that means something that would be equivalent to a four years' course, or such preparation as a university would accept for admission. It might be possible in some states that they would admit on a three years' high school course, and I should like an explanation of the word "equivalent" as used in that phrase.

H. S. Richards, of Wisconsin: I did not catch the inquiry of the gentleman. Will he not repeat it?

Elliott J. Northrup: My question was as to the meaning of the word "equivalent" in the third line of that resolution. It seems to me that that assumes that all state universities require either a four years' course or an equivalent, and my question was whether the resolution means either a four years' high school course or any preparation that the state university for the particular state would accept as a prerequisite for admission.

H. S. Richards: As I understand the committee's report, we had in mind this situation: The four years' high school course varies in different jurisdictions, and it was impossible for us to frame a definition of a high school course that would exactly fit the conditions in the several states. Therefore, we put it as a test to be applied generally—a four years' high school course or a course of study accepted by the university or principal college in the particular jurisdiction.

Elliott J. Northrup: You do not quite answer my question. Do you mean that you would require the completion of a four years' course or such a course of preparation as would be accepted by the state university? If that is the true meaning, it seems to me the word "equivalent" there introduces some ambiguity.

H. S. Richards: I suppose it means instead of.

Frederic C. Woodward, of Illinois: I would like to ask what is the principal college or university in a state; that is, who is to determine that? For instance, in the State of New York there is no state university.

Joseph H. Beale, of Massachusetts: My recollection of the form in which this passed the committee was that we did not raise that very difficult question because, as I remember it, it was "the principal colleges or universities in a state." But if this is the right time and place I assume that it will be for this body to decide which is the principal college or university in the State of New York, if the occasion arises where it is proper to determine that question.

William C. Dennis, of New York: We might take the one with the highest requirements and we could not get the student in.

Samuel Williston, of Massachusetts: Mr. President, I should like to amend Judge Reinhard's motion by substituting for "an equivalent" the words "a course of preparation."

William E. Walz, of Maine: I second that amendment.

The amendment was adopted.

The President: The question now recurs upon the recommendation as amended.

Frederic C. Woodward: I would like to offer a further amendment, to wit, that the phrase "principal college or university" be changed to "principal colleges and universities."

William C. Dennis: I second that last amendment.

The amendment was adopted and the resolution as amended was then adopted.

The President: The Secretary will now read the next recommendation of the committee.

The Secretary: The committee further recommends that section 4 of said Article VI be amended to read as follows:

It shall own, or have convenient access to, during all library hours, a library containing the reports of the state in which the school is located, the recent and current reports of the federal courts of the United States and of the courts of last resort in all the states; the revised statutes of the United States, the English Chancery and common law reports and at least three hundred volumes of standard text books.

George L. Reinhard, of Indiana: It seems to me that this is a pretty stringent requirement. It does not affect the law school with which I am connected, but I think I can see some injustice in it. The library containing the reports of the state in which the school is located, the recent and current reports of the federal courts and of courts of last resort in all the states, etc. It seems to me, gentlemen, there might exist a very good law school without all of this requirement for a library. Besides, I think the words are somewhat ambiguous. The words "or have convenient access to it"—what is the meaning of that phrase? Suppose the law school is located in the city where they have a Supreme Court library or a library belonging to a Bar Association, who is to determine whether it is of convenient access or not? Suppose the law school has access to the library of the Supreme Court which is located at a distance of twenty or thirty miles, who shall decide whether that is "convenient access"? It seems to me that, while we ought to be in favor of raising the standard of requirements, there is such a thing as going too far, and I shall oppose this recommendation for the reasons stated.

Charles Morris Howard, of Maryland: I agree with the gentleman who has just spoken, that a requirement of this kind is too drastic to be forced upon all the members of this Association. The section which it is intended to repeal possibly requires some amendment, but it seems to me this goes

too far in the direction of requiring all of the state reports and the "recent and current reports of the federal courts." I take it that all of the members have the Supreme Court reports and those of their own states. I do not know why the word "recent" was selected. I think the term "recent and current" might be broad enough to include all of the federal reports. Otherwise, under any other construction, who is to determine what is "recent"? We are a young country, and none of our federal courts is very old. I cannot see the justice of requiring this. The schools represented in this Association represent two types of schools. Of course it is easy for Harvard or Yale to comply with this requirement, or for any other richly endowed school to comply with it, but there are schools not furnished with these libraries, and the adoption of this recommendation would be to require of them what is practically impossible. One might say that, if they could make an arrangement with some law library to give access to its students, that would meet the requirement of "convenient access," but it is not certain, as we are here tonight, whether such an arrangement could be made or not. Those libraries generally guard their rights rather jealously and confine their privileges to members of the Bar. To say the least, it would be a hasty action to adopt such a requirement as this until all of the members of the Association have had an opportunity of investigating to ascertain whether some arrangement of this kind could be made with a library of "convenient access." If this change were adopted, it would have a retroactive effect in one sense in requiring a law school that was not able to comply with it to drop out of the Association, and it would be unfortunate, both for the school and for the Association, if that were to take place. It seems to me that, in view of the fact that the present rule is somewhat loose and the proposed rule, in my judgment, is too strict, it would be well to refer this recommendation back to the committee and let the matter be reported upon next year, especially in connection with the question that I have already suggested, namely, the possible

arrangement that could be made with some general law library. I think we ought at least to hear from the committee which recommended this, as to what would be the expense of such a library as is here suggested. I therefore move that the matter be referred back to the committee to report upon it next year.

Samuel Williston: I second that motion.

Frank Irvine, of New York: While the committee is under interrogation on a question of construction, it occurs to me as I read this recommendation that it does not require all of the reports of the courts of all the states, but the term used is "the recent and current reports." So that all that is called for is the reports of the state in which the school is located and the recent and current reports of the federal courts and of courts of last resort in all of the states. I think our friend Mr. Mason could, perhaps, suggest where such reports could be obtained. But what I should like to ask is, Why the requirement of three hundred volumes of standard text books? Is this Association willing to go on record as saying that there are three hundred text books absolutely required in a law school?

Alfred S. Niles, of Maryland: Mr. President, let us hear from the Executive Committee in answer to some of these questions.

Henry H. Ingersoll, of Tennessee: That is not necessary so long as we are going to recommit this until next year.

The President: The Chair would suggest that, perhaps, Mr. Beale can throw some light upon this matter.

Joseph H. Beale, of Massachusetts: If it is in order, pending a motion to postpone, I will gladly endeavor to do so. I think Professor Irvine's interpretation of this is entirely accurate. The only state court reports that are to be required, besides the reports of the courts of the state in which the law school is located, are "the recent and current" state reports, and the committee have made a rough estimate of the cost and

believe that the expense for procuring those will not exceed $2000. As to the number three hundred, of course that is an arbitrary number. If the Association thinks there are not more than one hundred good text books, let us cut the number down to one hundred; but if there are one thousand, let us say so. We have simply made a guess at it and have said about three hundred. As we are sitting now with closed doors I suppose we may speak of ourselves as the best law schools, and personally I think there are three hundred treatises that the best law schools ought to have in their libraries.

The President: Gentlemen, the question is on the motion to recommit this resolution to the committee.

The motion to recommit was adopted.

The Secretary will read the next section of the report.

The Secretary (reading): A memorial regarding the Promotion of Historical Study and Research was presented by Dean John H. Wigmore, of the Northwestern University School of Law.

In connection with the suggestions in this memorial, the committee adopted the following resolutions:

Resolved, That the Association be asked to appoint a committee to investigate the practicability of publishing under the auspices of the Association translations of foreign works of legal scholarship and works of original research in legal history and bibliography.

Resolved, That the Association be asked to appoint a committee to confer with those in charge of the Carnegie Institute in regard to the appropriation of money by that institution for legal research.

I have the memorial here; it is quite lengthy. What shall I do with it?

Lawrence Maxwell, Jr., of Ohio: Cannot the purport of it be stated briefly without reading it?

The Secretary: I am not sufficiently familiar with it to state its purport.

Henry Wade Rogers, of Connecticut: I think Mr. Woodward can state it.

The President: Mr. Woodward, will you state it?

Frederic C. Woodward, of Illinois: Mr. President and gentlemen, Professor Wigmore has presented a memorial regarding the promotion of historical study and research. He says that in his opinion the Association ought to concern itself with the promotion of legal historical study and research; and, in carrying out the proposed action, he suggests that the combined support of the Association should be given to it in order to convince the profession and other persons likely to be interested. He asks the Association to consider the propriety of appointing suitable committees so that the co-operation of publishers and of donors of money may be secured. Professor Wigmore has two thoughts in mind. One is to encourage the study of legal history in the law schools. The other is to make the study of jurisprudence, both in and out of the law schools, easier. With those two aims in view, he makes several recommendations in his memorial, but I think there are only three of them that the Association may be expected to consider at this time. The first is, that a committee of scholars shall map out a list of topics now most demanding further search in order that the younger scholars may be thus supplied with intelligent lines for their ambitions to pursue. In other words, that is a suggestion that a committee be appointed to map out a list of topics for further research, such list to be made by a committee of mature scholars in order that the younger scholars may be able to see along just what lines there is the greatest need of investigation and research. Then, with reference to the study of historical jurisprudence in law schools, he says, in the first place, that the materials now existing in the English language must be collected from scattered corners and brought together in a series of accessible volumes. It is practically impossible to set a class of students at work on the material in its present form, because for the purposes of a large body of students multiplicate entire sets of the periodicals or copies of rare pamphlets would be required. For the purpose of making these materials access-

ible, a committee should be appointed to make a list and collate those articles, and, if the Association thinks best, to publish a selection of the most valuable articles of jurisprudence that have heretofore been published in different periodicals and text books. Another suggestion under this head is that a committee be appointed to investigate the possibility of translating some of the greatest works of writers on continental jurisprudence.

Those are the three committees, then, which in this memorial he suggests. First, a committee on the selection of topics for further research. Second, the appointment of a committee on bibliography; and, third, the appointment of a committee on the translation of works on continental jurisprudence.

I might say that these recommendations were discussed at considerable length by Professor Wigmore last year in the paper which he read before the Congress at St. Louis.

George L. Reinhard, of Indiana: How are the means to be provided for these publications and translations?

Frederic C. Woodward: Professor Wigmore's purpose was, I think, to submit that matter to this Association. I think one idea that he had was that the law schools composing the Association might contribute to the publication of a series of volumes containing a collection of articles and chapters from books that would be desirable to lay before students in the study of jurisprudence.

William E. Walz, of Maine: It seems to me that the question of getting the necessary funds is the whole issue in this matter. If we can get the money, we can do the work. Unless this is the practicable suggestion of asking the Carnegie Institute to appropriate money for this purpose I think it will be very difficult to raise the money that will be necessary.

Henry Wade Rogers: I am sorry that Professor Wigmore is not here to explain his ideas to the Association a little more fully. He is on the other side of the Atlantic. As I understand it, he does not ask the Association to commit itself to

anything. He asks that a committee or committees be appointed to investigate and report. As I understand it, the Executive Committee of this Association has considered this matter and has voted to recommend that the Association authorize the appointment of these committees for the purpose of investigation and report. I can see no reason why the Association should not take that action, and I therefore move that these recommendations be concurred in.

Frederic C. Woodward: I second that motion.

The motion was adopted.

The President: The Secretary will read the next section of the report.

The Secretary (reading): The following resolution was adopted:

Resolved, That the Association of American Law Schools be asked to make of its meetings hereafter private business meetings of the Association only, at which no papers shall be read, and that all papers of the Association be presented in connection with the programme of the Section of Legal Education.

George L. Reinhard, of Indiana: I confess that I am not altogether certain whether I am right or not, but I have the impression that it would be better to continue the method we have been pursuing heretofore in regard to these meetings. Some questions arise in connection with the meetings of the Association which do not come properly before the Section of Legal Education, and it seems to me it would be better to have those questions discussed here and occasionally have a paper read by some gentlemen on methods of teaching and the work of the law school, and matters of that kind.

William E. Walz: Mr. President, I am of the same opinion, and I think, in connection with our discussions in the Association, we might take up the subject suggested by Professor Wigmore next year and then we shall be able, in the light of the addresses made, to come to a well considered decision.

Henry H. Ingersoll, of Tennessee: I move to concur in the resolution offered by the Executive Committee.

Samuel Williston, of Massachusetts: I second that motion.

The Secretary: Before that is voted upon, I desire to say that while I was a member of the Executive Committee I was not present at the time this resolution was prepared. It seems to me that the resolution ought not to be adopted. In the first place, here is an organization composed of forty law schools, and this Association is really carved out of the law schools in the United States. The Section of Legal Education is composed presumably of all the law schools belonging to this Association. Now, this resolution provides that we, as an Association, shall come before the Section of Legal Education and present our papers there. It certainly seems to me somewhat presumptuous on our part, without being asked by the Section of Legal Education, to do a thing of that kind. I think we ought to have these meetings of ours, and, furthermore, I think that we ought not to suggest a thing of this kind until we are invited to do it. I think the resolution is inappropriate and that it ought to be voted down.

Henry H. Ingersoll: I have not the honor to be a member of that committee, nor do I know what reasons impelled the committee to formulate this resolution, but I do know that at the last three or four meetings of the American Bar Association and of this Association we have seemed to be treading over the same path twice in our meetings of the Section of Legal Education and in our meetings of the Association of American Law Schools, and I had the half formed purpose in mind that we abolish the Section of Legal Education in the American Bar Association because it was *functus officio.* It seemed to me we were trying to do too many things in the way of legal education, and doing them over and over again—once in this Association and once in the Section of Legal Education. Now, I take it that the purpose of the committee was to confine the discussion of general subjects on legal education to the Section of Legal Education and to leave this Associa-

tion to transact its business for itself and within itself, and to give whatever papers it should issue, upon invitation, of course, for the benefit of the Section of Legal Education. I do not understand that the Section of Legal Education is composed of all the law schools in the United States. I never heard that before, and there is nothing in the Constitution of the American Bar Association which even suggests that. As I understand it, the members of the Section of Legal Education are generally interested in the subject of legal education whether they are or are not connected with law schools. Of course, all members of this Association will attend the meetings of that Section, and I suppose probably that teachers in other schools, not members of this Association, are there; but it is a lawyers' body, it is a section of the American Bar Association, and any member of that Association can, by virtue of his membership in that Association, attend its meetings. Therefore, the question which is before us, as I think, under this resolution is: Shall we continue that twofold argumentation of legal education which we have hitherto had or shall we have, at the pleasure of the American Bar Association, a single set of papers for consideration, and shall we confine the meetings of this Association to business or shall we continue the reading of papers and the listening to addresses, etc.? I like the suggestion of the committee because it enables us to preserve the Section of Legal Education in connection with the American Bar Association and to give the benefit of all we do to the current literature of the American Bar Association. One association a year is, perhaps, sufficient for that purpose. I shall vote for the resolution.

James Parker Hall, of Illinois: Is it contemplated each year that we shall have enough matters to occupy two sessions as we have planned this year? If so, it will be possible to have the two committees plan the programme so that there will not be any duplication. If the reading of papers is to be entirely merged in the Section of Legal Education, the question arises whether the Association of American Law Schools, as an

Association, shall have anything to do with the invitations for various papers to be read before it or whether it shall be entirely in the hands of the Section of Legal Education.

Joseph H. Beale, of Massachusetts: I think the views of that fragment of the committee, which was present at the time this action was taken, was that there are really two things to be accomplished, one of which the committee thought was important and the other of which the committee thought was comparatively unimportant. The important thing is to set apart some meeting of the law schools for business purposes like this meeting tonight. In the past we have had a great deal of business to do. At some meetings we have had papers read with the result that we have neither had time to do any other business nor to discuss the papers properly. It appeared to the committee important that the business should be considered by itself in an executive meeting to which the public should not be invited. If that was to be done, the question was whether the reading of the papers should not be entirely under the control of one body, the Section of Legal Education, or whether, as in the last few years, each of the two bodies should provide for papers to be read before it. While that did not strike us as a very important thing, it seemed on the whole that it would be just as well not simply to duplicate the functions of the Section of Legal Education, but so long as there was an older body which had as its only business the preparation and presentation of papers, that we should leave to that body the general control of preparing and presenting papers, and should confine our meetings simply to our own business. If that is not the desire of this Association, if we still wish to keep control of the papers to be presented in one day, it is perfectly easy to do that and yet accomplish the important thing which the committee had in mind, that is a single meeting devoted entirely to business.

H. S. Richards, of Wisconsin: As I understand the action of the committee, the programme has been arranged this year by co-operation, and that is the plan for the future—that in

arranging the programme the two committees should confer together. There is no presumption in passing this resolution, because we have consulted with the officers of the Section of Legal Education and this resolution is the result of that co-operation and understanding.

William E. Walz, of Maine: If there is such an understanding agreed to by the committees of this Association and of the Section of Legal Education, then there seems to be no objection to passing this resolution. But is there such an agreement? If there is no agreement, then Professor Rogers's objection stands. If, however, such an agreement exists and is good for the future, the resolution might as well be passed without any harm to this Association.

The Secretary: There is no agreement, and I presume could be none, with the Section of Legal Education excepting for this year. We met together this year and arranged the programme as you have seen, but that necessarily applies only to this one year. As I understand it, there was no agreement attempted for any year excepting this, and, even if it had been, it seems to me it could not have been carried into effect.

Alfred S. Niles, of Maryland: With all deference to those who have thought more about it than I have, it seems to me that what has been said here indicates that it is very advantageous for this Association to have a private business meeting. Now, it seems to me that if this resolution was framed about as follows: *Resolved*, That each year the Association of American Law Schools shall have one private business meeting for the members of the Association only, at which no papers shall be presented, and stop right there and leave all the rest to the Executive Committee, that would cover the arguments which have been presented tonight. In order to bring the matter before the Association, I offer this motion as a substitute for the pending resolution:

Resolved, That each year there shall be one meeting of the Association of American Law Schools which shall be a pri-

vate business meeting of the Association only, at which no papers shall be presented.

Of course that leaves the matter of papers open for the Executive Committee, and they may make such arrangement as seems best each year with the Section of Legal Education.

Henry H. Ingersoll: I am willing to accept the substitute.

James H. Brewster: I second the substitute that has been offered.

William E. Walz: I would make a further amendment by adding the words "providing that the committee of this Association can make arrangements with the committee of the Section of Legal Education to be represented on its programme; or, in other words, to get half of the programme for this Association.

James Parker Hall: If they can make such arrangements, well and good; but if they cannot, we can have a programme of our own. I do not think that it is necessary to put that in the motion.

George L. Reinhard: I do not see any necessity for passing this resolution either in its amended or original form, because it seems to me that the whole thing can safely be left in the hands of the Executive Committee. I am perfectly willing to trust the committee. If there is an opportunity when we can have papers, let us have the committee authorized to make a programme to that effect.

Henry H. Ingersoll: I do not understand that we are going to cut them off from that by the resolution as amended. We are simply taking the liberty of expressing our view that we ought to have one business meeting when nothing else shall come before us.

The President: The Chair, not having heard a second to the amendment offered by Mr. Walz, the question is on the original motion as amended by Mr. Niles.

The motion to amend was adopted and the resolution as amended was then adopted.

There remains to be considered the resolution regarding the publication of a quarterly legal periodical.

Joseph H. Beale, of Massachusetts: I am sorry that I did not understand that I was to present this report so that I might have had the documents which would enable me to be sure of all of my figures. Being a third member of the committee, I naturally supposed that the Chairman or the other member would be here. Professor Huffcut is in Europe and Professor Kirchwey was at the last moment unable to come. I can, however, give the gist of our conclusion. I think that, perhaps, a word or two as to the history of it is necessary in order to understand the committee's action. The Executive Committee at its meeting a year ago last May had presented to it a proposition for a law school magazine. Of the five members of the committee, it appears then that three held a view that one sort of a periodical would be advisable, but not the other. The other two members held the same opinion, changing the periodical. After considerable discussion, we all agreed that it might, perhaps, be wise to have both periodicals, that of the character which three of the members preferred and also another periodical of the character that two of the members preferred, and we accordingly recommended to the Association last year the adoption of the proposition to have a small quarterly periodical which should be an organ of the Association and should be particularly concerned with law school news, matters of interest to law schools and articles on legal education, and that we should also recommend to the American Bar Association the establishment of a periodical of the class of the *English Law Quarterly* to be really the organ of the American Bar. There was not time last year, as you may remember, to take up either proposition. The one with which we are now particularly concerned is the organ of this Association, and that was referred back to the same committee that had already considered it in order to bring in figures; the other was referred to the Executive Committee, and that is the one that appears on this printed programme. Now, as to the

proposition for a small periodical to be the organ of this Association, the committee has to report this: They have in mind a quarterly publication of about sixty pages each quarter, to contain, in the first place, the papers read at these meetings bearing on legal education; to contain other papers discussing interesting cases of law, news of law schools, information about the curriculum and methods in use in the different schools, and such notices of the publication of current books that teachers and students of law may keep up with legal literature. We went to one or two publishers to find out what they would do, and we have received from two responsible publishers propositions to print such a magazine, in a form to be approved by us, under our supervision at a cost to subscribers of from fifty cents to a dollar a year at no expense whatever to the Association. One publisher offers to provide a reasonable sum for the payment of such editor as we shall select for the publication. We can, then, without expense to ourselves, have this magazine if we choose. The committee, after considering the propositions, voted to recommend the acceptance of one of them. They did not again consider at great length the question whether it was advisable to have such a periodical, because apparently what they were desired to report this year was whether if we wished to have it we could have it. We can have it and without any expense to the Association.

Henry H. Ingersoll: Or responsibility?

Joseph H. Beale: Or responsibility, except for providing an editor whom we need not pay.

Henry H. Ingersoll: Is there a resolution before the house on that subject?

Joseph H. Beale: The committee recommends the appointment of a committee with power to provide for the publication of such a periodical.

Henry H. Ingersoll: Then, Mr. President, I move the adoption of the committee's recommendation.

The motion was seconded and adopted.

The President: What action shall we take with regard to appointing a committee under the resolution at the end of the Executive Committee's report?

Joseph H. Beale: I move that the committees, and the one just authorized, shall be appointed by the Chair at his leisure, the number of members on each committee to be left in the discretion of the Chair.

Henry H. Ingersoll: I second that motion.

The motion was adopted.

Henry H. Ingersoll: I have a matter that I wish to submit to the Association—

The President: One moment, Mr. Ingersoll. I am not clear whether I understand the motion concerning this review or journal. The Secretary thinks the motion was one thing and I another.

The Secretary: The motion made by Mr. Ingersoll was simply to adopt the recommendation of the Executive Committee for the appointment of a committee with power to provide for the publication of a journal by this Association, while the resolution referred to in the report of the Executive Committee pertains to the publication of a journal by the American Bar Association.

Alfred S. Niles: As I understood it, the resolution printed on the first page of the Executive Committee's report, in reference to a general periodical, was postponed because it was thought that we ought not to adopt that without first hearing from the special committee as to its proposition. Now we have had an extremely satisfying statement from Mr. Beale in reference to the arrangements made for this periodical. Therefore, it seems to me, before adopting this resolution, that the Executive Committee ought to make some statement as to whether it involves any financial responsibility.

Joseph H. Beale: The committee did not feel that it could officially approach any publisher on this point, because, accord-

ing to the reading of this resolution, it would be for the American Bar Association to do that; but, while investigating the other periodical, a member of the committee upon his own responsibility had some tentative talk with a publisher on the subject. I believe that it would be possible to finance such a journal without further expense to the American Bar Association than it is now put to in the printing of this report; that is, if the American Bar Association would pay to a publisher, as subscriptions for its own members to this periodical, an amount equal to the sum now paid for printing and distributing its annual reports, a publisher could be found who would publish this periodical and also publish as a supplement to it the proceedings of the American Bar Association and distribute them to the members of the Association gratis. However, as I have stated, there is nothing official to communicate on this point; it is simply a possibility which the American Bar Association would have an opportunity to consider.

Henry H. Ingersoll: As I understand the meaning of this resolution, it is intended as the expression of a wish that the American Bar Association shall make some kind of *quasi-official* legal publication equivalent to the *English Quarterly Law Review*, and we simply recommend to the American Bar Association that they take that matter into consideration and do as they think best about it. Is not that the idea?

Joseph H. Beale: That is it exactly.

Henry H. Ingersoll: Then I move its adoption.

Samuel Williston, of Massachusetts: It seems to me that it is hardly worth while for us to recommend to the American Bar Association the establishment of such a review. In order to make such a periodical worth anything an enormous amount of labor has to go into it. There is no use filling it up with poor material. There must be an editor employed who will devote a great deal of time to it. There must be a body of scholars engaged who are willing to devote a great deal of time to writing articles for it. Unless it is done well, it seems to me it is a great deal better not to be done at all; moreover, if

it cannot be done well for a series of years, it seems to me it is a great deal better that it should not be undertaken. We have already committed ourselves to one magazine, and, although that magazine is by the resolution to be devoted primarily to questions of legal education, yet in order to make a creditable magazine which shall run through a series of years it will be necessary to trench upon larger fields than educational questions alone afford. As was well said by Dean Hall in his paper this afternoon, the problems of legal education upon which one can write are not very numerous. It will not take a great while to write most of the articles that are likely to be written on the few topics of exclusively educational interest. Of course, there are certain news items in regard to law schools that would fill a portion of the review, but in order to make it valuable it must also deal with wider legal questions. I doubt the possibility of the American Bar Association's establishing a magazine maintaining a thoroughly creditable review for a series of years, especially when there are other magazines established to which many of the men who could be counted upon as contributors for the American Bar Association's review must also be called upon to contribute. For these reasons I must oppose the motion just made by the gentleman from Tennessee.

Henry Wade Rogers: I think the Association of American Law Schools ought to be very careful and deliberate as to what it recommends to the American Bar Association. It hardly seems to me that it is within our province to pass a resolution here advising the American Bar Association to print a law quarterly magazine. I do not see what the Association of American Law Schools has to do with that particular piece of business, and at the same time we offer ourselves as editors of it. I certainly hope the motion that has been made will be voted down.

James Barr Ames, of Massachusetts: I concur fully in the views just expressed, and I should like to say one further thing, namely, that we have already several very good legal

periodicals, and they do not sustain themselves easily; they do not keep up their present quality without considerable difficulty. I think it would be very unfortunate to introduce another rival publication, and I believe it would be a very poor publication, for it is certainly true that many of the writers for the present periodicals will prefer to give their articles to the journals with which they are identified or towards which they have very friendly relations. I believe this proposed periodical would have very hard sledding, and would be, as I say, a very unworthy periodical for this Association to publish.

Joseph H. Beale: I think it is only fair to suggest a few considerations on the other side. In the first place, as this magazine will not go to a limited body of readers, but to the American Bar generally, and will be very widely circulated among the most prominent members of the Bar, it will offer, perhaps, a more attractive field to the ordinary legal scholar and thinker than the present magazines, and will fill to that extent an entirely different function. In the second place, as the plan contemplates payment for articles, members of the Bar will be more ready to contribute to its columns. Furthermore, as it contemplates the payment for editorial work, the difficulties experienced by the present law school magazines in getting their editorial work done will not be felt. I feel much sympathy with what has been said respecting the field which this magazine will cover, and that the field is already covered to a large extent. Yet at the same time we must remember that there are only three or four schools which have magazines, and that the need for this magazine is felt by schools which do not have a magazine of their own and would like to have a real interest in some magazine in which they could claim a kind of proprietary right.

Henry H. Ingersoll: But that will be the law school magazine, will it not?

Joseph H. Beale: I mean a magazine which will discuss legal problems. Of course, the law school magazine will be a

magazine of pedagogy and gossip, and a few things which will interest us, but not the Bar generally.

James H. Brewster, of Michigan: Last year and this year I was much surprised to hear Professor Beale of Harvard advocate the establishment of this periodical. Now, I am glad to see he is not quite so heartily in favor of it, and I am also glad to see that the Dean of the Harvard Law School is not in favor of it. Would it not in the end do away, or tend to do away, with such valuable contributions as have appeared for eighteen years in the *Harvard Law Review?* Would it not tend to do away with the *Columbia Law Review*, the *Yale Law Journal* and the journals of other large schools? Our little four year old *Michigan Law Review*, that we have tried to make something of, would surely go. Isn't there already too much reviewing going on? I personally have seen the difficulties of getting proper articles for a review, and I rather think that even Harvard, from the fact that I was asked to write for its review, must be hard up at times for articles for its publication. We ought not, as has been suggested, to advise the American Bar Association to do something unless we know what we are doing. Does anyone realize the difficulty of editing a review? Sir Frederick Pollock, when he was here, told me that the English lawyers would not even support well the *Law Quarterly Review*. Yet Mr. Beale says that this review that he proposes to establish is going to be taken by all the best lawyers. How does he know that? Anyone who has ever had anything to do with a law review knows very well that many of the best lawyers do not subscribe to it. They may read the review in the law libraries, and they may promise to write an article for it, and when the editor is ready to go to press they will write him saying the preparation of the article has been prevented by the pressure of important business. We have several magazines already, legal periodicals of high character and of general interest to the profession, and I venture to say they are not as well supported as they should be. The Columbia and Harvard journals have not as large a list of subscribers as

they ought to have. Now, why should we undertake to add another law review to these that are already in the field? There are not many reviews in the West, but there are enough. Shall we kill them all off by establishing this one? If they were all consolidated, then we might get articles from the faculties of the several law schools and from leading lawyers, and in that way make a first-class legal journal. Indeed, I think that would be a good scheme if it could be brought about. I am not speaking as a rival editor or publisher now; I am speaking merely of the difficulty of properly editing and conducting these papers. I want to tell you, as business manager of the *Michigan Law Review*, that to test the desire of lawyers for a legal periodical, we took the names and addresses of many leading lawyers, nearly all members of the American Bar Association, and we sent to them a circular calling attention to our review, offering to send them sample copies, and let me say we were not invading territory already occupied by university publications because we sent them mostly to the West and Southwest, and we obtained about fifteen new subscribers, and twenty members of the bar wrote requesting us to send on the sample copies, and I may add, confidentially, that those who asked for the sample copies never asked for anything more. I am willing to disclose that fact in this private conference, not admitting by any means that the *Michigan Law Review* is the worst law review published. We have had some capital articles in it; it was started by a good man and is a good magazine, and it has been continued by good work and hard work, but our experience shows that busy lawyers haven't generally both the inclination and the time to read reviews. Now, in conclusion, let me say that we ought not to undertake this scheme unless the existing reviews are willing to consolidate.

George L. Reinhard, of Indiana: I move that the resolution we have been discussing be laid on the table.

William E. Walz, of Maine: I second the motion.

The motion to lay the resolution on the table was adopted.

The Secretary: It seems to me that one of the divisions of the President's paper presented this afternoon should have had some additional consideration, and I desire to present a resolution which takes up a phase of the paper that was discussed for only a short time, that is, Comity Between Law Schools. My resolution is this:

Resolved, That a committee be appointed by the Chair to investigate and report upon the feasibility of a uniform curriculum for the schools belonging to this Association.

Henry H. Ingersoll, of Tennessee: I second the adoption of that resolution.

The President: Gentlemen, the resolution is before you.

The Secretary: It seems to me that an Association consisting of forty law schools should have a little closer relation than these schools now have and that such close relation can be brought about by having something of a uniform curriculum. I do not know, because I have made no investigation and don't know that anyone has investigated it, as to how nearly uniform the curriculum of the different schools may be made, but it seems to me that the appointment of a committee to investigate that subject and to report will aid us very much in establishing a curriculum which will be quite uniform as to all of the schools. If we had such a curriculum adopted it seems to me there would be very little difficulty in a student being transferred from one school to another without the examination of that student; that is, if he has taken the first year in one school and after that, for any reason, desires to attend another school, that on a certificate that he has done the work at the schools in accordance with the curriculum that might be adopted he could very easily take up the work of the other school. I concede that the question of transferring students is not perhaps to be discussed here, but it seems to me important that we should make an effort to get upon a basis which will be quite common to all law schools.

James Parker Hall, of Illinois: Let me ask just what is meant by a "uniform curriculum"? Do you mean by that

the same subjects, or the same subjects taught in the same way, or for the same length of time, or by the same methods?

The Secretary: I had in mind the same subjects taught the same length of time more than anything else. Of course, my resolution does not quite go into the details because it calls for the appointment of a committee to investigate and report upon the matter.

The resolution was adopted.

Henry H. Ingersoll, of Tennessee: Mr. President and gentlemen, I wish to speak on a matter which is perhaps one of personal privilege, but it is certainly a matter of interest to a portion of this country which has been very feebly represented in this Association. When this Association was organized five years ago some of us who had come up from the South with the intention of contributing our mite towards the organization made very earnest requests to lower the standard of requirement originally proposed, to the end that there might be a representation in this Association from the Southern law schools. We made these representations with the very best of intentions and without any mental reservations. Acceding to our request the older and stronger and larger schools, feeling no doubt that the Association ought to contain not only the strong, but possibly some of the weak to the end that they might become stronger, extended the period within which the requirements of a three years course should be complied with until the year 1905, which has now arrived. Hoping that the University of Tennessee would at that time be prepared to extend its curriculum to three years we joined the Association, and we were the only Southern law school that did so, and until tonight we were the only representative of the Southern law schools of which I suppose there are some twenty-five in all, of all sorts and conditions. With the exception of Trinity of North Carolina, which has been admitted tonight, I do not know of any other law school in the South besides the University of Texas that has a law curriculum of three years. The possibility of the University of Tennessee complying with

this requirement in the immediate future, is, I am sorry to say, not very bright, and it may be that if no action is taken by the Association it will be our regretful duty at the end of the year to ask a letter of honorable discharge. Now, I think it perhaps worthy of the consideration of the Association whether or not it is or is not wise to extend the time still further for compliance with that condition. It is not because we do not wish to comply with the condition that we have not already done so, but the fact is that the conditions of education in most of the Southern states are such that the standards are not as high for any kind of education as they are at Harvard, Yale, Columbia and some other of the Northern law schools. It was a strange thing to me from the beginning that the University of Virginia, an old law school and an honored one, a school of high standard, did not come into this Association. But it did not come in, and it has not yet come in; and so, until tonight, with the single exception of the University of Tennessee, the Southern law schools have remained outside of the Association. During the last five years I can say our standards in Tennessee have been elevated. At least two of the schools in the state, the State University and Vanderbilt University, are doing excellent work in the way of legal education, and, by their course of two years, are giving to law students as much as can be given in two years with this advantage which we have over the larger schools, namely, personal contact with every pupil. The cause of education in the Southern states during the last three years has received a very great impetus. In my own state, which is perhaps an example of several of the other Southern states, there have been held a series of summer schools for general education and advancement of the teachers of the South, at which there has been present an average attendance of from twelve hundred to fifteen hundred teachers from twenty different states. At present there is being conducted in Tennessee a campaign of education in which are engaged the leading teachers of the state, together with a great many

private citizens who are going around to encourage the people to increase their taxation for the purpose of elevating the standards of public education. This work is being done successfully, and best of all the politicians are taking hold of it as a popular measure. On the subject of law schools, however, while there has been on the part of many of the schools in the South some advance, those of us who are trying to maintain high standards and who have a pride in being accounted worthy of membership in this Association have to contend with what you may imagine is sharp rivalry from schools whose sole purpose seems to be to qualify men to get admitted to the Bar. In some states that standard of admission to the Bar is the Indiana standard. I beg the pardon of any gentleman present from Indiana, but we all know the kind of standard that is. In our own state it is my pleasure to say that after ten years of strenuous work on the part of the State Bar Association we have succeeded in obtaining the passage of a statute repealing the old statute which authorized any two circuit judges or two chancellors or any law school faculty of the state to license men to practice law. At least two of the law schools have succeeded, by the use of the third house of the legislature, after ten years of effort in getting that old system abolished and the system adopted of having state examiners appointed by the Supreme Court and a uniform standard for admission to the Bar established. Now you ask, perhaps, Why not raise your standards? The difficulty is that our law schools are self-supporting; they have no endowments, and thus far they have received no state aid. I believe that in five years more the University of Virginia, Washington and Lee, Vanderbilt, Texas, as well as Tennessee and Trinity, will be members of this Association provided the present condition which expires this year is extended for that length of time. I am informed that certain steps have been taken already in the University of Virginia looking in that direction. Now, the question to be considered is whether or not this Association will continue its helpful relations towards

the Southern law schools. If it desires to do so, it can easily do it. If it prefers not to do so, that is for the Association to decide.

With this statement, gentlemen, I leave the matter in your hands. I think I ought not to make any motion myself. Indeed, I ought not to make any request. It is not proper for me to ask you for our school to lower your standards, but we are one of a class of a dozen law schools in the South that are worthy of membership here, and it will be helping those who are trying to help themselves to maintain proper standards, and with the assistance of this Association we think we can do it. Without your assistance even we hope to do it, but it will be a much more difficult matter than if we have your help.

James H. Brewster, of Michigan: Will a period of five years be necessary?

Henry H. Ingersoll: I cannot say what period will be necessary.

William D. Lewis, of Pennsylvania: Can a law school, not a member of this Association now get into the Association if it has not a three years' course? I ask that for this reason: If we take this action, would that admit law schools having only a two years course, or would it simply enable us to retain those law schools which have been with us and whose efforts to elevate themselves I think we all appreciate?

The President: The Constitution of the Association requires that after the year 1905 no school shall be admitted to membership in this Association that does not have a three years' course.

Henry Wade Rogers, of Connecticut: How many two year schools are there that are now members of the Association?

The Secretary: Only one, I think; Judge Ingersoll's school. The St. Louis Law School when it entered the Association had a two years' course, but two years ago it extended the course to three years.

William C. Dennis, of New York: Has the Buffalo Law School extended its course to three years?

The Secretary: I am not informed as to that.

William D. Lewis: In regard to the law school of the University of Virginia, which is not a member of the Association, has not that a two years' course?

The Secretary: Yes, sir.

William D. Lewis: What is the reason why it has not joined the Association before?

Henry H. Ingersoll: The reason why they did not join in the beginning was because of the opposition of the trustees who said that the traditions of the University of Virginia since its foundation had been to admit anybody without any examination whatever, and then to kill them on the examination if they were not qualified, but if they could qualify them during their attendance there to give them their degree. That is what kept out Virginia. But conditions are changing there. The first great change was the election of a President there recently. They are even talking of making a three years' school of it. My belief is that in less than five years it will be a three years school. Brother Hughes I see here from Virginia, perhaps he knows more about it than I do.

Henry Wade Rogers: It seems to me it would be a very unfortunate thing for us to extend the time as asked for by the Dean of the Law School representing the University of Tennessee. I think the time has come when this Association should not admit to membership any schools which are not on the three year basis. I think we all appreciate the condition which faces the law school of the University of Tennessee, and realize that that institution is doing good work and means to reach our standard as soon as it possibly can. It appears that this school, with the possible exception of the Buffalo school, is the only school in this Association on the two year basis, and I would suggest whether it is not possible so to change our Constitution that hereafter no school shall be

admitted to the Association except those that are on the three year basis, and that will leave Mr. Ingersoll's school in the Association. It came in when the Association was organized; let it stay, but admit no more on that basis.

Robert M. Hughes, of Virginia: I am not connected officially with the University of Virginia. My only connection with it is that of a very much interested alumnus. I have been told that the University of Virginia is endeavoring to get to a three years' course, but nothing tangible has resulted from that effort as yet. I think, however, that it will probably have a three years' course in the near future. Very recently it has somewhat changed its policy in the matter of entrance examinations. It has been the theory there to guard the exit rather than the entrance. Recently, however, they have taken steps to introduce entrance examinations to the academic department, and that will, of course, apply as well to the law department of the University.

James Barr Ames, of Massachusetts: It would seem to me impracticable to adopt the suggestion of Mr. Rogers. Any change in our Constitution must have been submitted at least ninety days before the meeting. I think we all appreciate the admirable spirit in which the gentleman from Tennessee has expressed his desire to continue the membership of his school in the Association. Personally I should feel very sorry to have him cease to be present at the annual meeting of the Association, at the same time I think we must look at the real interests of legal education throughout the country. From that point of view I think we must adhere to our rule, even if we lose for a time the University of Tennessee Law School. My own feeling is that if we insist upon our rule the chances are that the University of Tennessee and other two year law schools will soon raise their course to three years. I believe it is the part of kindness to the University of Tennessee not to comply with the wish expressed by the gentleman representing that institution, however much we may personally regret it.

The President: Is there anything further on this subject? There is no motion before us, and therefore we will pass to the next business in order, which is the report of the Committee on Nominations.

The Secretary: Mr. President, the Auditing Committee is ready to report.

The President: Let that be received now.

The Secretary: The Auditing Committee desires to report that it approves the Treasurer's report.

On motion, the report was received and the Committee discharged, and the report of the Treasurer as audited was approved and placed on file.

The President: Now we will receive the report of the Committee on Nominations.

George L. Reinhard, of Indiana: Mr. President and gentlemen: The Committee on Nominations respectfully report that they nominate the following as officers of the Association for the ensuing year:

For President: Henry Wade Rogers, of Connecticut.

For Secretary-Treasurer: William P. Rogers, of Ohio.

For Members of the Executive Committee: Harry S. Richards, of Wisconsin; William A. Mikell, of Pennsylvania; James B. Brooks, of New York.

On motion, the report of the Nominating Committee was adopted and the gentlemen named were declared elected officers of the Association for the ensuing year.

The President: Under Mr. Beale's motion I have been authorized to appoint two committees, as follows: Under the resolution in connection with the memorial of Professor Wigmore, I appoint Professor John H. Wigmore, of the Northwestern University; Professor Ernst Freund, of Chicago University, and Professor William E. Mikell, of University of Pennsylvania. Under the resolution that the Association be asked to appoint a committee to confer with those in charge of the Carnegie Institute in regard to the appropriation of money

for legal research, I appoint Professor James Barr Ames, of Harvard University. Under the resolution of Professor Rogers in regard to investigating the curriculum of law schools, I appoint Professor W. P. Rogers, of Cincinnati Law School; Professor Alfred S. Niles, of Baltimore Law School, and Professor James H. Brewster, of the University of Michigan.

Upon the Committee on Publication of a periodical, I appoint Dean George W. Kirchwey, of Columbia Law School, Dean Ernest W. Huffcut, of Cornell University College of Law, and Dean Harry S. Richards, of the University of Wisconsin College of Law.

Is there anything further to come before the Association at this time?

James H. Brewster, of Michigan: I think there are several here who do not feel quite satisfied, in spite of what Dean Ames has said, in regard to the action in reference to the University of Tennessee. Cannot something be done for that institution? Cannot a committee be appointed to consider the matter? Judge Ingersoll has stated their aims and their hopes. Cannot this Association, without any injustice to itself or any lowering of its standards, either extend the time a little or appoint a committee to consider the matter? There is always some way to do something to help people who are trying to help themselves. Otherwise, will it not appear that this is an association of Northern law schools? Do we want it to appear that fine Southern universities, like Virginia and those of other states, are cut out from membership in this educational body? I will move that a committee be appointed by the Chair to draft an amendment to the Constitution which shall, if possible, permit the schools now in the Association to continue members of it.

George L. Reinhard, of Indiana: I must oppose that motion, and for these reasons: When this Association was organized a great fight was made upon the requirements for a three years' course. The question was then very thoroughly debated and

everything that could be said for a shorter course was said. The result was the adoption of the three years' requirement by a decided majority of all the law schools represented when the Constitution was adopted, but in deference to those schools which urged that they were unable to comply with the requirement, for some time at least, the period at which the rule requiring a three years' course should go in force was extended until the close of the year 1905. I should regret as much as anyone to lose from the membership of this Association any of the schools that are now members, and especially to lose the genial companionship of our friend Judge Ingersoll, the efficient head of the Law School of the University of Tennessee. I appreciate the situation in which he is placed by reason of the peculiar conditions prevailing in his state. We have had the same struggle in Indiana. I should not have referred to my own state if it had not already been mentioned in this connection. It is unfortunately true that in Indiana it is too easy to become a member of the Bar. That is one of the reasons why we had this same struggle in our law school which my friend has to go through in Tennessee. We still have some difficulty in convincing students that it is better for them to take a three years' course. I think I can truthfully say that if we should go back to a two years' course and admit every applicant without regard to his preparation, we could easily double the number of our students. But we do not wish to go backward in this matter. We have almost survived the struggle and the number of our students is constantly increasing. While it is true that we have some law schools in Indiana that stand ready to graduate men upon almost any terms, yet the best young men in the state, those who appreciate the necessity of thorough preparation, are rapidly coming to see the advantages offered by the three years' course and by the larger entrance requirements. I do not believe we should lower the standard. Why, then, make one rule applicable to one particular law school and another to the remaining law schools of the country which belong to this Association? If Dean Ingersoll

will permit me, I will say that he can easily suggest to his students that they can come to his school for two years notwithstanding the three years' requirement, although they cannot obtain their degree unless they remain three years. I am sure they will prefer to go to a good law school like his for two years without getting a degree than to attend a poor one elsewhere and obtain a degree from it at the end of one or two years. Very soon they will come and remain three years. I am not in favor of lowering the standard, and believing that that would be the result of passing this resolution I am fully persuaded that we ought not to adopt it.

Joseph H. Beale, of Massachusetts: I feel the same difficulty that Mr. Reinhard has expressed. We are asked in a hurry now to say that we shall change the Constitution so as to favor a school because we are very fond of its representative here and would like to keep him with us. I do not see how we can do that in fairness to other schools who have stayed out of the Association because they have only a two years' course. If Mr. Brewster's motion were to appoint a committee to see if anything could be done for the University of Tennessee I should feel differently about it, but to appoint a committee and instruct them beforehand what they shall do, I submit, is not proper nor wise.

Henry H. Ingersoll, of Tennessee: Gentlemen, I fear I am placed in a false attitude here. I do not wish to be understood as asking any special favor for the University of Tennessee. It is true that the requirements of this Association are only a little beyond our present reach. We give eighty weeks' instruction in two years already, yet we have been unable quite to reach the three year standard. I speak on behalf of the South; I make the request that I have made not only for the University of Tennessee, but for all the Southern schools, many of whom I know would like to come in this Association and hope to come in when they shall be able to. I thought possibly it might be desirable to keep the Southern schools in this Association. I am very thankful to my breth-

ren present who have expressed such kind personal feeling for me, but do not let the action of the Association be determined by that; whatever is best for all I shall, of course, cheerfully acquiesce in though it separates me from future attendance here.

Frederick C. Woodward, of Illinois: I feel the embarrassment which Professor Beale has expressed in being called upon to act in a matter of so much importance at this late hour of the evening. I therefore move, as a substitute for the pending motion, that the matter of the standing of the two years schools now members of this Association be referred to the Executive Committee for consideration and report at the next year's meeting of the Association.

Joseph H. Beale: I second that motion.

The President: Is there any discussion of the motion.

Horace L. Wilgus, of Michigan: It seems to me that the Association desires to raise the standard of legal education as much as possible. Mr. Ingersoll, as I understood him, tells us that in the South, if we will be lenient for a year or two, or for five years at the utmost, there is a possibility of legal education in that section being advanced more rapidly than if we should apply the particular rule that now exists. That is, of course, to a large extent a matter of opinion. So far as I am personally concerned, I have no knowledge of the exact conditions in the South, but if we can raise the standard of legal education there more rapidly by suspending this rule for two or three years I should unhesitatingly vote to do it. If, on the other hand, as Dean Ames has suggested, it would be a kindness to the educational requirements of the South and to those that are engaged in legal education, to require them to comply now or not at all until they have absolutely provided the three years, then it seems to me that would be the course to take. I think the plan of leaving it to the Executive Committee is a wise one, provided we ask that committee to make a special investigation of the conditions in the South and to report so that we may vote intelligently when the matter comes before us finally next year.

The President: The Chair understands that is what is contemplated by the motion.

James H. Brewster: Mr. President, I will accept the substitute offered by Mr. Woodward in place of my motion.

The President: Then the substitute becomes the motion upon which we are to vote.

The substitute resolution was adopted.

The President: Is there any further business?

William E. Mikell: I move that the Association adjourn.

The Association then adjourned.

W. P. ROGERS,
Secretary.

PROCEEDINGS

OF THE

FIFTEENTH ANNUAL CONFERENCE

OF

COMMISSIONERS ON UNIFORM STATE LAWS

HELD AT

NARRAGANSETT PIER, RHODE ISLAND,

August 18, 19, 21 and 23, 1905.

OFFICERS OF THE CONFERENCE, 1905–1906.

AMASA M. EATON, *President*,
Providence, Rhode Island.

CHARLES E. SHEPARD, *Vice-President*,
Seattle, Washington.

ALBERT E. HENSCHEL, *Secretary*,
29 Broadway, New York, New York.

TALCOTT H. RUSSELL, *Treasurer*,
42 Church Street, New Haven, Connecticut.

GLENDINNING B. GROESBECK, *Assistant Secretary*,
Mercantile Library Building, Cincinnati, Ohio.

MEMORANDUM.

The National Conference of Commissioners on Uniform State Laws is made up of Commissioners created by the different states, meeting in conference and organizing themselves into a national body for the better accomplishment of the work for which its members were appointed by the states. The Commissioners, usually three from each state, are

appointed under laws of the respective states creating them, usually for five years, with authority to confer with Commissioners of the other states and recommend forms of bills or measures to bring about uniformity of law in the execution and proofs of deeds and wills, in the laws of bills and notes, marriage and divorce and other subjects where such uniformity seems practicable and desirable. The officers of the National Conference consist of a President, Vice-President, Secretary, Treasurer and Assistant Secretary, elected annually. Fifteen Conferences have so far been held; the first at Saratoga, for three days, beginning August 24, 1892, and the fifteenth at Narragansett Pier, Rhode Island, August 18, 19, 21 and 23, 1905.

A complete list of the Commissioners of the several states, with standing committees will be found in the following pages. Drafts of the various acts recommended by the Conference, excepting the Negotiable Instruments Law, will be found in the following pages.

The time of the Fifteenth Conference was largely taken up in the consideration of the Uniform Sales Act, drafted by Professor Samuel Williston, of the Harvard Law School, and of the Uniform Warehousemen's Act, drafted by Professor Williston and Barry Mohun, Esq., author of a well-known work on this subject.

Professor Williston was employed to draft a Code governing Bills of Lading.

The Committee on Commercial Law was authorized to have the drafts of the Sales Act, of the Warehousemen's Act and Bills of Lading Act printed and distributed in order to obtain expert comment and criticism to facilitate the perfecting of these measures before their final adoption by the Conference.

Professor James Barr Ames, Dean of the Law School of Harvard University, was requested to draft the Uniform Act on Partnership, on which he is at work, in accordance with the mercantile theory. It is expected that the draft will be ready for submission to the next Conference.

A Constitution and By-Laws were adopted to supersede the Rules heretofore in force.

The Conference heartily approved the action of the State of Pennsylvania and of its Governor, Honorable Samuel W. Pennypacker, in calling a convention of representatives from the several states to meet in Washington, District of Columbia, for the promotion of uniform state laws upon the subject of divorce. It is expected that this meeting will take place in the early part of next year. Its work will be limited to the single subject of divorce, and much good to the general cause of uniformity of legislation may be anticipated from an enlightened public opinion aroused by such a convention at the seat of government.

The Negotiable Instruments Act has been adopted in the following states and territories:

New York Laws of 1897, ch. 612; became law May 19, 1897.

New York Laws of 1898, ch. 336; became law April 26, 1898.

Connecticut Laws of 1897, ch. 74; approved April 5, 1897.

Colorado Laws of 1897, ch. 64; approved April 20, 1897.

Florida Laws of 1897, ch. 4524; approved June 1, 1897.

Massachusetts Laws of 1898, ch. 533; to take effect January 1, 1899.

Massachusetts Laws of 1899, ch. 130; to take effect March 6, 1899.

Maryland Laws of 1898, ch. 119; approved March 29, 1898; went into effect June 1, 1898.

Virginia Laws of 1897–8, ch. 866; approved March 29, 1898.

Rhode Island Laws of 1899, ch. 674; to take effect July 1, 1899.

Tennessee Laws of 1899, ch. 94; to take effect May 15, 1899.

North Carolina Laws of 1899, ch. 733; went into effect March 28, 1899.

Wisconsin Laws of 1899, ch. 356; to take effect May 15, 1899.

North Dakota Laws of 1899; approved March 7, 1899.

Utah Laws of 1899, ch. 149; to take effect July 1, 1899.

Oregon Laws of 1899, Senate Bill 27; approved February 16, 1899.

Washington Laws of 1899, ch. 149; went into effect March 22, 1899.

District of Columbia Laws of 1899, U. S. Stats.; approved January 12, 1899.

Arizona R. S. 1901, Title XLIX, §§ 3304-3491; to take effect September 1, 1901.

Pennsylvania Laws of 1901, ch. 162; approved May 16, 1901.

Ohio Laws of 1902, Senate Bill 10; to take effect January 1, 1903.

Iowa Laws of 1902, ch. 130; approved April 12, 1901.

New Jersey Laws of 1902, ch. 184; approved April 4, 1902.

Montana Laws of 1903, ch. 121; approved March 7, 1903.

Idaho Laws of 1903, Senate Bill 86; approved March 10, 1903.

Kentucky Acts of 1904, ch. 102; to take effect June 13, 1904.

Louisiana Acts of 1904, ch. 64; to take effect August 1, 1904.

Kansas Laws of 1905, ch. 310; approved March 7, 1905; to take effect June 8, 1905.

Wyoming Laws of 1905, ch. 43; to take effect February 15, 1905.

Missouri Laws of 1905, p. 243; approved April 10, 1905; to take effect June 16, 1905.

Michigan P. A. 1905, Act 265; approved June 16, 1905; to take effect September 10, 1905.

Nebraska Sess. Laws 1905, ch. 83; approved April 1, 1905; to take effect August 1, 1905. In Comp. Laws, 1905, ch. 41.

In accordance with the Constitution and By-Laws adopted at this Conference, the Commissioners will please advise the Secretary of the date of their appointment, specifying the law or authority under which the appointment was made and the duration of their term of office; also of any changes in the personnel of the respective State Commissions.

The Conference earnestly urges upon the legislatures of the several states, as well as upon their Commissioners, the importance of introducing at the next session all of the bills recommended which have not passed, and the Secretary would ask members to communicate with him whenever such bills are introduced.

In case the list of commissioners as printed in this report is not correct, or any changes are made subsequently, the Secretary should be notified at once.

Extra copies of this report and of such previous reports as are extant may be obtained on application to the President.

CONSTITUTION AND BY-LAWS

OF THE

COMMISSIONERS ON UNIFORM STATE LAWS.

CONSTITUTION.*

ARTICLE I.

Name and Object.

SECTION 1. This Conference or Association of Commissioners shall be known as "Commissioners on Uniform State Laws."

SEC. 2. Its object shall be to promote uniformity of state laws by affording the Commissioners on Uniform State Laws, appointed in the different states of the United States of America, an opportunity of meeting in Annual Conference for the better accomplishment of the work for which they were appointed.

ARTICLE II.

Membership.

SECTION 1. Its members shall consist of the Commissioners appointed under the laws or by the authority of the respective states of the United States of America to bring about uniformity of state laws, whose commissions give them authority to confer with Commissioners of the other states of said United States.

SEC. 2. Each Commissioner, upon his first attendance at an Annual National Conference of Commissioners and on his reappointment, shall file with the Secretary of the Conference the date of his commission, a statement of the term for which he is appointed and a reference to the Act of Assembly or other authority under which he has been appointed a Commissioner.

ARTICLE III.

Officers and Committees.

SECTION 1. The following officers shall be elected at each Annual Conference for the year ensuing:

A President, Vice-President, Treasurer, Secretary, Assistant Secretary, and an Executive Committee shall be constituted which shall consist of the President, Vice-President, Treasurer, all of whom shall be *ex-officio* members, together with four other members to be appointed by the President.

SEC. 2. The following committees shall be annually appointed by the President, for the year ensuing, and shall consist of seven members each:

1. Executive.
2. Commercial Law.
3. Wills, Descent and Distribution.
4. Marriage and Divorce.
5. Conveyances.
6. Depositions and Proof of Statutes of other States.
7. Insurance.
8. Congressional Action.
9. Appointment of New Commissioners.
10. Purity of Articles of Commerce.
11. Uniform Incorporation Law.
12. The Torrens System and Registration of Title to Land.

A majority of those members of any committee who may be present at any Annual Conference shall constitute a quorum of such committee for the purposes of such Conference.

ARTICLE IV.

Duties of Members.

SECTION 1. It shall be the duty of the Commissioners from each state, at least thirty days before each Annual Conference, to report to the Chairman of the Executive Committee the enactment of any laws or the filing of any judicial decisions in

the state from which they are appointed, upon the subject of uniform legislation in the United States.

SEC. 2. It shall be the duty of the Commissioners from each state to attend the Annual Conference of the Commissioners from the various states, or to arrange before each Annual Conference for the attendance of at least one Commissioner from their state at such Annual Conference.

SEC. 3. It shall be the duty of the Commissioners from each state to report to the President of the National Conference the death or resignation of any Commissioner from their state.

SEC. 4. It shall be the duty of the Commissioners from each state to endeavor to secure from the legislature of their state an appropriation toward defraying the annual expenses of the National Conference of Commissioners.

SEC. 5. It shall be the duty of the Commissioners from each State to file with the President, Secretary and members of the Executive Committee a copy of their reports to the governor or legislature of their respective states.

ARTICLE V.

By-Laws.

By-Laws may be adopted, repealed or amended at any Annual Conference of Commissioners by a majority of the Commissioners present.

ARTICLE VI.

Annual Address.

The President shall open each Annual Conference with an address, in which he shall communicate such changes in the statute laws of each state as tend to promote uniformity of legislation in the United States, and also any matters of interest concerning subjects of legislation, as to which uniformity may seem practicable and desirable, as well as any matters of general interest relating to the work and aims of the Conference. The topics referred to in the President's

Annual Address relating to subjects pertinent to the work of this Conference, with his recommendations thereon, shall be referred to the appropriate committee or to special committees of the Conference, and each committee shall report at the next Conference upon such matters so referred.

ARTICLE VII.

Annual Conference.

The Annual Conference of Commissioners shall be held yearly at such time and place as shall be selected by the members of the Executive Committee, and those Commissioners present at each daily session of such Conference shall constitute a quorum.

ARTICLE VIII.

Amendments.

This Constitution may be altered or amended by a two-thirds vote of the Commissioners present at any Annual Conference; but no such change shall be made at any conference at which less than fifteen Commissioners are present.

ARTICLE IX.

Construction.

The word "state," whenever used in this Constitution, shall be deemed to be equivalent to state, territory or district, or insular possession of the United States of America.

ARTICLE X.

Privileges at Conference.

The members of the Committee on Uniform State Laws of the American Bar Association shall be privileged to attend the Annual Conference of Commissioners and to participate in the discussions of the Conference, but without the right to vote.

BY-LAWS.

Calling to Order.

SECTION 1. The Annual Conference shall be called to order by the President, or, in his absence, by the Vice-President, or, in the absence of both the President and Vice-President, by the Secretary of the last preceding Conference.

Roll Call.

SEC. 2. The Secretary shall call the roll of members by states and report the names of those present.

Officers.

SEC. 3. The Conference shall annually thereupon proceed, upon nomination of a committee appointed for that purpose, or by direct vote of the Conference, as it shall determine, to elect a President, a Vice-President, Treasurer, Secretary and Assistant Secretary, who shall serve as such during the Conference and until their successors shall be elected.

Duties of Officers.—President.

SEC. 4. The President shall preside at all meetings of the Conference, appoint all standing committees and, unless otherwise ordered by a vote of the Conference, he shall also appoint the members of special committees. It shall be his duty to make an annual address or report to the members of the Conference.

Vice-President.

SEC. 5. The Vice-President, during the absence or inability of the President, shall possess all the powers and perform all the duties of the President in his stead.

Treasurer.

SEC. 6. The Treasurer shall receive all the funds of the National Conference of Commissioners, and shall keep and

disburse the same, under the direction of the Executive Committee. He shall give bond with a surety company as surety for the faithful performance of his duties, in such form and in such amount as may be from time to time required by a vote of the National Conference, and such bond shall be deposited with the President for safe keeping. The premium on such bond shall be paid by the Conference. He shall keep, or cause to be kept, regular books and full accounts, showing all the receipts and disbursements, which books and accounts shall be open at all times to the inspection of the President or any member of the Executive Committee. He shall report, at each Annual Meeting of the Conference, as to the financial condition of the treasury, with a detailed statement of the receipts and disbursements. All of the funds of the National Conference shall be deposited in the name of the Treasurer, in such deposit banks or trust companies as shall be designated from time to time by a vote of the Conference; such funds shall be disbursed by the Treasurer by checks signed by him, every voucher having endorsed upon it the approval of the Chairman of the Executive Committee.

Secretary.

SEC. 7. The Secretary shall keep a record of the proceedings of the Conference, and of such other matters as may be directed to be placed on the files of the Conference; he shall keep an accurate roll of the officers and members of the Conference, with the dates of the attendance of each Commissioner, the date of his commission and the term thereof; he shall issue notices of all meetings of the National Conference, in such form as shall be approved by the Executive Committee; notify the members of all committees of their election or appointment, conduct the correspondence of the Conference, and report to the Executive Committee, prior to the Annual Conference, a summary of his transactions during the year; shall perform such other duties as may be required of him by the Conference, the President, or the Executive Committee, and his books and

papers shall at all times be open to the inspection of the Executive Committee, and he shall receive such compensation for his services as shall be allowed by the Conference.

Assistant Secretary.

SEC. 8. The Assistant Secretary shall assist the Secretary in the performance of his duties, and act for him in his absence.

Committees.

SEC. 9. The President, as soon as may be after his election, shall appoint the following standing committees:

1. Executive.
2. Commercial Law.
3. Wills, Descent and Distribution.
4. Marriage and Divorce.
5. Conveyances.
6. Depositions and Proof of Statutes of Other States.
7. Insurance.
8. Congressional Action.
9. Appointment of New Commissioners.
10. Purity of Articles of Commerce.
11. Uniform Incorporation Law.
12. The Torrens System and Registration of Title to Land.

Order of Business.

SEC. 10. At each session of the Conference the order of the business shall be as follows, unless otherwise ordered by the Conference:

1. Call of the Roll.
2. Address of the President.
3. Reading of Minutes of Last Meeting.
4. Election of Officers.
5. Report of Executive Committee.
6. Report of Standing Committees and discussion thereof in the order named in article III, section 2, of the Constitution.

7. Reports of Special Committees.
8. Unfinished Business.
9. New Business.

Reports of Committees.

SEC. 11. All reports of committees shall be in writing. No Commissioner or person privileged to participate in the discussions, except the member of the committee making the report, shall speak more than once to the subject matter of the report, nor for more than ten minutes, until after all the Commissioners shall have had an opportunity to be heard. A stenographer shall be employed at each annual meeting.

Motions and Resolutions.

SEC. 12. Motions and resolutions shall, on request of the Chair, be reduced to writing and be referred at once to the appropriate committee, unless otherwise directed by a majority vote of members present.

When a question is under debate, no motion shall be received but:

1. To adjourn.
2. To take a recess.
3. To lay on the table.
4. To postpone to a certain day.
5. To commit.
6. To amend.
7. To postpone indefinitely.

Which several motions shall take precedence in the order in which they stand arranged. When a recess is taken during the pendency of any question, the consideration of such question shall be resumed upon the reassembling of the Conference unless otherwise determined.

A motion to adjourn shall always be in order; that and the motion to lay on the table shall be decided without debate. A motion for recess, pending the consideration of other business, shall not be debatable.

Absence of Members of Conference.

SEC. 13. When any state having a commission shall fail to be represented at two consecutive meetings of the Conference, the President shall notify the Governor of such state of the absence of its Commissioners for such action by the Governor as he may deem proper, and unless the non-attendance has been excused by the Conference.

Reports of Committees.

SEC. 14. Each committee whose province is some branch of law shall report annually what, if any, recommendations it desires to make; what progress has been made in securing the adoption of bills, within its province, already recommended by the Conference; and what difficulties have been met in securing the adoption of such bills. It shall be the duty of the Executive Committee to call the attention of the Chairman of each such committee to this rule a reasonable time before each annual meeting of the Conference.

Printing, Etc.

SEC. 15. All papers read before the Conference shall be lodged with the Secretary. The annual address of the President, the reports of committees, and so much of the proceedings at the Annual Conference as the Executive Committee shall direct, shall be printed; but no other address made or paper read or presented shall be printed, except by order of the Executive Committee.

The Secretary shall send one copy of the report of the proceedings of the Conference to the President of the United States, and to each of the Justices of the Supreme Court thereof, and to the Library of the State Department, and of the Department of Justice thereof, and to the Governor, and to the Chief Judge of the Court of last resort of each state, and to the State Librarian thereof, and to such other persons or bodies as the Executive Committee may direct.

No resolution complimentary to an officer or member for any service performed, paper read or address delivered shall be considered by the Conference.

SEC. 16. The terms of office of all officers elected at any annual meeting shall commence with their election.

SEC. 17. The President shall appoint all committees, within thirty days after the annual meeting, and shall announce them to the Secretary, and the Secretary shall promptly give notice to the persons appointed.

SEC. 18. The Treasurer's report shall be examined and audited annually, before its presentation to the Conference, by two members to be appointed by the President of the Conference.

Executive Committee.

SEC. 19. The Executive Committee shall meet on the day preceding each annual meeting, at the place where the same is to be held, at such hour as the Chairman shall appoint.

If, at any annual meeting of the Conference, any member of the committee shall be absent, the vacancy may be filled by the members of the committee present.

It shall be the duty of the Executive Committee to make all arrangements for the annual meeting of the Conference, and to endeavor to secure the attendance at each Annual Conference of the Commissioners from the states represented in the Conference; to communicate with the Chairman of each standing committee and each special committee at least thirty days before the meeting of the Annual Conference with the view of securing a statement of the work of such committee since the preceding Annual Conference, and to attend to such other matters as may be from time to time referred to the committee by the Conference.

SEC. 20. Special meetings of any committee shall be held at such times and places as the Chairman thereof may appoint. Reasonable notice shall be given by him to each member by mail.

SEC. 21. The traveling and other necessary expenses incurred by any committee, standing or special, for meetings of such committee during the interval between the annual meetings of the Conference, shall be paid by the Treasurer on the approval and by the order of the Executive Committee out of such appropriation as to the Executive Committee may seem necessary in such case on previous application in advance of its expenditure.

SEC. 22. All reports of committees containing any recommendation for action on the part of the Conference shall be printed, together with a draft of bill embodying the views of the committee, whenever legislation shall be proposed. No legislation shall be recommended or approved except upon the report of a committee.

SEC. 23. It shall be the duty of the Commissioners from each state to endeavor to procure the enactment by the legislature of their state of each and every law recommended by the Conference, and the Secretary shall furnish them with copies of each and every recommendation and draft of bill when there shall be such draft; and whenever this Conference shall by resolution recommend the enactment of any law or laws, the Secretary shall, as soon as possible, furnish a copy of the resolution to the President of each State Bar Association with the request of this Conference that such State Bar Association shall co-operate with the Commissioners of that state in having a bill introduced in the legislature of their state containing the subject matter recommended by such resolution, and use proper means to procure the enactment of the same into law. In every state where there is no State Bar Association, a copy of such resolution, with a similar request, shall be sent to the President of the Bar Association of the principal city in such state; and in every instance where the form of bill has been recommended with the resolution, a copy of such form of bill shall also be sent with the resolution.

SEC. 24. These By-Laws may be amended at any Conference of the Commissioners by a majority vote of the Commissioners present at such Conference.

LIST OF COMMISSIONERS ON UNIFORM STATE LAWS

1905.

ARIZONA.—Edward Kent, Phoenix; George R. Davis, Tucson; E. E. Ellinwood, Prescott.

CALIFORNIA.—John F. Davis, 530-534 Crossley Building, San Francisco; Charles Monroe, California Club, Los Angeles.

COLORADO.—Robert J. Pitkin, 441 Equitable Building, Denver; Jacob Fillius, 830 Cooper Building, Denver; Thomas H. Devine, Opera House Block, Pueblo.

CONNECTICUT.—Talcott H. Russell, New Haven; Walter E. Coe, Stamford; Erliss P. Arvine, New Haven.

DISTRICT OF COLUMBIA.—R. Ross Perry, Washington; F. L. Siddons, Washington; Aldis B. Browne, Washington.

FLORIDA.—Robert W. Williams, Tallahassee; John C. Avery, Pensacola; Louis C. Massey, Orlando.

GEORGIA.—Peter W. Meldrim, Savannah; A. C. Pate, Hawkinsville.

ILLINOIS.—John C. Richberg, 1304 Rector Building, Chicago; Arthur A. Leeper, Virginia, Cass Co.; E. Burritt Smith, 1050 First National Bank Building, Chicago.

INDIANA.—Oscar H. Montgomery, Seymour; George L. Reinhard, Bloomington; Samuel O. Pickens, Indianapolis; John Morris, Fort Wayne.

IOWA.—Emlin McClain, Iowa City; L. G. Kinne, Des Moines; H. O. Weaver, Wapello.

KANSAS.—John D. Milliken, McPherson; J. O. Wilson, Salina; Thomas B. Wall, Wichita.

LOUISIANA.—Thomas J. Kernan, 414 Third Street, Baton Rouge; W. O. Hart, 137 Carondelet Street, New Orleans; J. R. Thornton, Alexandria.

MAINE.—Charles F. Libby, 57 Exchange Street, Portland; Frank M. Higgins, Limerick; Hannibal E. Hamlin, Ellsworth.

MARYLAND.—Milton G. Urner, Frederick; George R. Gaither, Jr., Baltimore; Stevenson A. Williams, Bel Air.

MASSACHUSETTS.—James Barr Ames, Harvard Law School, Cambridge; L. D. Brandeis, 161 Devonshire Street, Boston; George E. McNeil, Somerville; George W. Weymouth, Fairhaven; George E. Gardner, 18 Tremont Street, Boston.

MICHIGAN.—C. W. Casgrain, 1009 Hammond Building, Detroit; George

W. Bates, 32 Buhl Building, Detroit; Wesley W. Hyde, 613 Washing Trust Building, Grand Rapids.

MINNESOTA.—Charles E. Flandrau, St. Paul; W. S. Patte, Minneapolis; W. W. Billson, Duluth; Rome G. Brown, 1006 Guaranty Building, Minneapolis; Frederick V. Brown, Minneapolis.

MISSISSIPPI.—R. H. Thompson, Jackson; S. S. Calhoun, Jackson; W. V. Sullivan, Oxford.

MONTANA.—J. B. Clayberg, Helena; T. C. Marshall, Missoula.

NEBRASKA.—J. M. Woolworth, First National Bank Building, Omaha; John L. Webster, 826 N. Y. Life Building, Omaha.

NEW HAMPSHIRE.—Joseph W. Fellows, Manchester; H. E. Burnham, Manchester; Ira A. Chase, Bristol.

NEW JERSEY.—Woodrow Wilson, Princeton; John R. Hardin, Prudential Building, Newark; Frank Bergen, Elizabeth.

NEW YORK.—Walter S. Logan, 27 William Street, New York City; E. W. Huffcut, Ithaca; Charles Thaddeus Terry, 167 Broadway, New York City.

OHIO.—Seth S. Wheeler, Lima; Francis B. James, Mercantile Library Building, Cincinnati; William E. Cushing, 632-637 Society for Savings Building, Cleveland.

OKLAHOMA.—J. C. Strang, Guthrie; J. W. Shartell, Oklahoma City; C. R. Brooks, Guthrie.

PENNSYLVANIA.—William H. Staake, 501-506 Franklin Building, Philadelphia; Walter George Smith, 1006 Land Title Building, Philadelphia; C. La Rue Munson, Elliot Block, Williamsport.

RHODE ISLAND.—Amasa M. Eaton, Providence; James Tillinghast, Providence.

SOUTH CAROLINA.—H. E. Young, 28 Broad Street, Charleston.

SOUTH DAKOTA.—A. B. Kittridge, Sioux Falls; L. B. French, Yankton; J. W. Wright, Clark.

VERMONT.—O. M. Barber, Bennington; Joseph P. Lamson, Cabot; A. A. Hall, St. Albans.

VIRGINIA.—A. A. Phlegar, Christiansburg; R. T. Barton, Winchester; John Garland Pollard, Richmond.

WASHINGTON.—Charles E. Shepard, New York Building, Seattle; Ira P. Englehart, North Yakima; Alfred Battle, Alaska Building, Seattle.

WISCONSIN.—Commission not yet named.

WYOMING.—Commission not yet named.

LIST OF

COMMISSIONERS ON UNIFORM STATE LAWS

PRESENT AT THE

FIFTEENTH ANNUAL CONFERENCE,

Narragansett Pier, Rhode Island.

August 18, 19, 21 and 22, 1905.

CONNECTICUT.—Talcott H. Russell, New Haven.
FLORIDA.—R. W. Williams, Tallahassee.
ILLINOIS.—John C. Richberg, Chicago.
INDIANA.—George L. Reinhard, Bloomington.
LOUISIANA.—W. O. Hart, New Orleans.
MAINE.—Frank M. Higgins, Limerick; Charles F. Libby, Portland.
MARYLAND.—Stevenson A. Williams, Bel Air.
MASSACHUSETTS.—James Barr Ames, Cambridge; G. W. Weymouth, Fairhaven.
NEBRASKA.—John L. Webster, Omaha.
NEW YORK.—Walter S. Logan, New York.
OHIO.—Francis B. James, Cincinnati; Seth S. Wheeler, Lima.
PENNSYLVANIA.—Walter George Smith, Philadelphia; William H. Staake, Philadelphia.
RHODE ISLAND.—Amasa M. Eaton, Providence; James Tillinghast, Providence.
VIRGINIA.—John Garland Pollard, Richmond; R. T. Barton, Winchester.
WASHINGTON.—Charles E. Shepard, Seattle.

From August 19, 1905.

CALIFORNIA.—Charles Monroe, Los Angeles.
MINNESOTA.—Frederick V. Brown, Minneapolis; Rome G. Brown, Minneapolis.

From August 21, 1905.

GEORGIA.—Peter W. Meldrim, Savannah.
VERMONT.—Joseph P. Lamson, Cabot.

From August 22, 1905.

INDIANA.—John Morris, Fort Wayne.

LIST OF MEMBERS OF THE AMERICAN BAR ASSOCIATION WHO ARE NOT COMMISSIONERS AND OTHERS WHO ATTENDED:

MASSACHUSETTS.—L. M. Friedman, Boston.
VIRGINIA.—S Griffin, Roanoke.
MISSOURI.—Jacob Klein, St. Louis.
NEW YORK.—Raphael J. Moses, New York; Theodore Sutro, New York.
PENNSYLVANIA.—H. S. Prentiss Nichols, Philadelphia; Henry C. Niles, York.
DISTRICT OF COLUMBIA.—Clifford S. Walton, Washington.

CANADA.—John T. Small, Barrister-at-Law, Toronto.

LIST OF COMMITTEES OF THE CONFERENCE 1905-6.

(Names given first are Chairmen.)

1. **Executive Committee.**

Ex-officio.

Amasa M. Eaton, Providence, Rhode Island, *President.*
Charles E. Shepard, Seattle, Washington, *Vice-President.*
Talcott H. Russell, 42 Church Street, New Haven, Conn., *Treasurer.*

Appointed Members.

William H. Staake, 501 Franklin Building, Philadelphia, Pa.
Francis B. James, 1004-5 Mercantile Library Bldg., Cincinnati, Ohio.
Walter S. Logan, 27 William Street, New York, New York.
Peter W. Meldrim, Savannah, Georgia.

2. **Commercial Law.**—Francis B. James, James Barr Ames, Rome G. Brown, E. W. Huffcut, Charles F. Libby, Walter George Smith, Talcott H. Russell.

3. **Wills, Descent and Distribution.**—E. Burritt Smith, William E. Cushing, W. O. Hart, Frank M. Higgins, Edward Kent, John Morris, Charles E. Shepard.

4. **Marriage and Divorce.**—Walter S. Logan, James Barr Ames, Peter W. Meldrim, John Garland Pollard, William H. Staake, Seth S. Wheeler, Woodrow Wilson.

5. **Conveyances.**—William E. Cushing, H. E. Burnham, C. R. Brooks, Charles E. Flandrau, Edward Kent, Charles T. Terry, J. W. Wright.

6. **Depositions and Proof of Statutes of Other States.**—Frederick V. Brown, Ira A. Chase, E. E. Ellinwood, John R. Hardin, C. La Rue Munson, A. A. Phlegar, Walter George Smith.

7. **Insurance.**—Charles F. Libby, Louis D. Brandeis, C. La Rue Munson, John C. Richberg, Talcott H. Russell, John L. Webster, Robert W. Williams.

8. **Congressional Action.**—James Barr Ames, R. T. Barton, Walter S. Logan, Emlin McClain, William H. Staake, G. W. Weymouth, John G. Pollard.

9. **Appointment of New Commissioners.**—Amasa M. Eaton, Thomas J. Kernan, Charles F. Libby, Peter W. Meldrim, William H. Staake, Walter George Smith, Charles E. Shepard.

10. **Purity of Articles of Commerce.**—William H. Staake, James Barr Ames, Walter S. Logan, John Morris, E. Burritt Smith, J. R. Thornton, Charles T. Terry.

11. **Uniform Incorporation Law.**—Frank Bergen, Frederick V. Brown, Rome G. Brown, Charles Monroe, John C. Richberg, G. W. Weymouth, Seth S. Wheeler.

12. **The Torrens System and Registration of Title to Land.**—John C. Richberg, James Barr Ames, Erliss P. Arvine, Walter E. Coe, George E. Gardner, W. O. Hart, Charles T. Terry.

PROCEEDINGS.

Narragansett Pier, Rhode Island,
Friday, August 18, 1905, 10 A. M.

The Fifteenth Annual Conference of the Commissioners on Uniform State Laws convened at the Hotel Mathewson, Narragansett Pier, Rhode Island, on Friday, August 18, 1905, at 10 A. M., with President Amasa M. Eaton in the chair.

(*See List of Commissioners present.*)

Glendinning B. Groesbeck, of Cincinnati, Ohio, was elected Assistant Secretary, in place of J. Moss Ives, resigned.

The President, Amasa M. Eaton, of Rhode Island, then delivered the annual address.

(*The Address follows these Minutes.*)

On motion of William H. Staake, of Pennsylvania, reading of the minutes of the previous meeting was dispensed with, they having been printed and distributed to the members.

Attention was called to the fact that Dr. Wiley's name, appearing in the minutes of 1904 as "R. W. Wiley," should be H. W. Wiley; with this exception the minutes were approved.

The next business being the election of officers, on motion by W. O. Hart, of Louisiana, the Chair appointed the following committee of five to nominate officers: Francis B. James, of Ohio; John Garland Pollard, of Virginia; Seth S. Wheeler, of Ohio; W. O. Hart, of Louisiana, and S. A. Williams, of Maryland.

The reports of standing committees being next in order, the Chair called first for that of the Executive Committee, which was read by William H. Staake, of Pennsylvania, its Chairman.

(*The Report follows these Minutes.*)

On motion of Walter George Smith, of Pennsylvania, the

report was received and approved, and laid on the table for later consideration of the proposed Constitution and by-laws.

The President: The report of the Committee on Commercial Law.

Francis B. James, of Ohio: The Committee on Commercial Law will make a verbal report of progress at this time; it is still continuing its deliberations, and will be ready to make a complete report tomorrow. Professor Ames desires to present to the Conference an outline of his proposed draft of a partnership act for the purpose of getting some preliminary views of the Conference before he proceeds with his draft, and I suggest that the Conference hear him now because he desires to leave here in the morning.

The President: We shall be glad to hear from Professor Ames at this time.

James Barr Ames, of Massachusetts: Mr. President and gentlemen. The Chairman of our committee is under a slight misapprehension as to just what I wished to bring before the Conference. I have not made any outline even of the proposed draft of a partnership act. When I began to consider the question seriously I met with a difficulty, and I wanted the opinion of the members of the Conference before I went any further. The English draftsman has a very different problem from the American draftsman because he is dealing substantially with the law of one jurisdiction, and his object is to make a digest which shall receive Parliamentary sanction, while our attempt is to bring about uniformity in the laws of between forty-five and fifty jurisdictions. We have found that to be practicable in the Negotiable Instruments Law, and I think it may be said that it has been found practicable in regard to the Sales Act which the committee is now at work upon. There are many differences undoubtedly in the different jurisdictions, but the distinctions are not fundamental, as a rule, and they are not differences which the states would presumably feel bound to abide by. The law of partnership is

altogether different, for almost from the beginning of the development of the law of partnership there has been a contest going on between the lawyers and the merchants. The merchants have had one conception as to the nature of a partnership, and the lawyers have had quite a different conception. The merchants have looked upon a partnership as a distinct personality; they speak of a partnership as a concern—as a person, in effect; they look upon it as owning property and as contracting. The lawyers, on the other hand, have steadily insisted that a partnership is simply a group of co-owners, co-obligors and co-obligees. With that difference of view between merchants and lawyers, it is obvious that there must be differences of decisions in different jurisdictions, accordingly as in one court or another the views of the merchant or the views of the lawyer happen to prevail.

I wanted to call your attention to a few illustrations of those divergencies, and then to explain my difficulty. Take, for instance, the holding of property. By the mercantile conception the partnership would hold the property, would be the owner, title would be vested in the firm as such. That is the law throughout Continental Europe. That is the law in Scotland. I think, but I am not sure, that is the law in our own State of Louisiana. It is the law of Lower Canada. On the other hand, throughout our states a firm as such cannot hold the property. It is held, it is said, by the partners jointly. Let me illustrate one difficulty arising from this conception. Suppose a conveyance is made to a partnership by its firm name. Where is the title to go? Not having the mercantile principle to go upon, the courts have gone apart in different jurisdictions. For instance, in eight states the title vests in those partners whose names appear in the firm name; in three states the title stays in the grantor, it does not pass at all; in seven states—as in England—the title vests in all of the partners in the firm.

Now, there are three conflicting views—and, of course, the first view, that the title vests in the partners whose names

appear in the firm, will have no application if the firm name does not happen to represent any one of the living partners. For example, a firm may be carrying on business under the name of John H. Pray & Company. John H. Pray may be dead. Now, in those states where the title remains in the grantor, of course the practical difficulty is very largely obviated by the court's holding that whoever has the title holds it in trust for the firm. That is, in effect, treating the firm as a person in equity. Of course, all those difficulties will disappear at once if the mercantile conception is adopted. Take the case of the creditor of one partner attempting to levy upon the firm property. If the property is held at law by the partners as co-tenants, of course at common law the share of the partner, the legal title of the partner, could be taken upon execution or attachment by a creditor of that partner. In seventeen jurisdictions that is the rule. It is the right and duty of the sheriff to seize the chattels, or the lands of one partner, at the suit of a creditor of that partner. In ten jurisdictions, although the court says that the partners are co-owners, the sheriff is a trespasser if he touches the firm's property. Of course, those views are utterly irreconcilable. That illustration brings out what we see continually in the law of partnership, the courts professing to look upon the partnership from the common law point of view and abandoning the principle in concrete cases. Again, to show the difference of view: Equity will restrain a levy upon firm property at the suit of a creditor of one member of the firm in twelve jurisdictions and in four jurisdictions it will not. In England and in a few of our states a partner cannot compel a partition of real estate. In most of our states, however, a partner can compel partition if all the firm debts have been paid. There again is an irreconcilable view, due to this fundamental difference between the mercantile and the common law view of a partnership. Almost everywhere a widow has dower and the heir inherits a deceased partner's share of the firm's real estate if the same be not required in the payment of the firm debts. In Eng-

land, however, the rule is the other way; the widow has no dower, and the heir takes no interest in the realty as such. In New York even, which recognizes in general the right of the widow, if the land of the partnership was purchased with firm funds, the widow has no interest in it. There again you have the same difficulty. The creditor of a partner holding security on the firm's property may prove in the bankruptcy of the individual partner without relinquishing the security. That is a recognition, of course, of the commercial idea.

There is another striking difference: Suppose one of the partners has died, what are the rights of the firm's creditors against the estate of the deceased partner? In eight jurisdictions the firm creditor cannot proceed against the estate of the deceased until he has exhausted his remedy against the partnership property and the survivor. In thirteen jurisdictions he may proceed at once against the estate of the deceased without first exhausting his remedies otherwise. That illustrates how inequality may be brought about by the mere fact that one of the partners has died. If the partners were all alive, the creditors would proceed against all the partners and could satisfy their joint execution out of the property of any one of the partners; they would all be treated alike, but the moment one partner dies in eight of our jurisdictions the estate of the deceased is in a more favorable position by reason of his death. Now, of course, there ought to be no difference in those two classes of cases. Either the firm creditor should have a right to proceed against the separate estate of all the partners concurrently with his proceeding against the estate of the firm or he ought to be debarred from proceeding against the separate estate of all the partners uniformly.

There are other illustrations. In eight jurisdictions if the firm property of any insolvent firm is transferred to the creditor of a single partner, the conveyance is void; the mere fact that it is conveyed by an insolvent firm makes it fraudulent. In six jurisdictions the rule is the other way; you must prove absolute bad faith. I believe that distinction will entirely

vanish if the courts would adopt the mercantile conception of a firm. Then as to suing: Of course at common law all actions by or against a partnership must be in the names of all of the partners. That has been found to be a difficulty in many states, and thirteen jurisdictions have passed statutes, as England did long ago, allowing suits to be brought by or against firms in the firm name. Of course, there is a great lack of uniformity among the thirteen states having such legislation. In one state suit is allowed in the firm name at law, but not in equity. In one state it is allowed in the justices courts, but not in the circuit courts. These are really fantastic differences.

Now, I was so much impressed by the impossibility of getting any uniform law without sacrificing the law of almost all of the states in many particulars that it seemed to me that it really was not worth while to attempt to draft a partnership act except upon some sound fundamental principle. That principle, it seems to me, is the one which is recognized elsewhere throughout the commercial world, outside of England and the United States, namely, the mercantile conception of a partnership. I do not mean by that to say that it is necessary to state categorically in the act that a partnership is a person. That is a mere matter of detail. But what I should deem of fundamental importance would be substantially this: That the partnership as such should be made the owner of the firm's property; the title at law should vest in the partnership as such; the partnership as such should be treated as the obligor, and also as the obligee on firm contracts, and that actions by or against the partners should be brought in the firm name.

I believe if those three provisions are made that you would have substantial recognition of the commercial theory in regard to the nature of a partnership. Those are substantially the provisions in the latest German code passed in 1900. Nowhere in the act is it stated that the firm is a person. There is a great deal of controversy in Germany as to just what a legal person is. They avoid that controversy in the way I have sug-

gested. I have endeavored to bring before you my difficulty because it did not seem to me worth while to attempt to bring about uniformity in the law of partnership unless we attempted to get the mercantile idea of a partnership; I feel that so strongly that, if the Conference thinks my plan undesirable, I should much prefer to have some one else draw the act; I should have no heart in drawing an act on any other theory, and it would seem to me very unwise to stereotype in a statute so many anomalies as must be stereotyped if we attempt to enact in a law the lawyer's technical conception, which is in direct violation of the mercantile understanding. I therefore would like very much to have the opinion of the Conference as to whether it is expedient to draft the act along the lines I have indicated. Let me add that I have no desire to draw this act and should be extremely glad to withdraw from the occupation, but I am in your hands.

Francis B. James, of Ohio: I move that in drawing the partnership code Professor Ames be requested to draw it on the lines of the mercantile theory of a partnership.

Walter S. Logan, of New York: I second that motion. I think if we did not approve of it before we all of us approve of it now, and I believe we all agree that that is the only way in which the act can be drawn. Whether it can be drawn in that way so as to meet with the approval of the majority of the states remains to be seen, but I think we all agree that that is the only thing we can do.

W. O. Hart, of Louisiana: Before the question is put, I desire to return my thanks to Professor Ames for his adoption of the law of Louisiana. Every one of the difficulties that he has mentioned has been foreseen in the law of my state, and we go a little bit further I think in definition; we do not say a partnership is a person, but our code says a partnership is a distinct identity from the persons composing it. And I may say that the Bankruptcy Law of 1898 has practically adopted the Louisiana theory, because a partnership as such may take the benefit of the Bankruptcy Law.

The motion was unanimously adopted.

After some discussion the Committee on Commercial Law was requested to continue working in committee upon the proposed Sales Act, recommend such changes as they may see fit, and then bring their recommendations and their report before the Conference.

On motion by William H. Staake, of Pennsylvania, duly seconded and adopted, the length of the sessions was made as follows: from 9.30 to 12 in the forenoon; from 3 to 5.30 in the afternoon, and the question of an evening session was left to be determined at the afternoon session.

By unanimous consent, the report of the Treasurer, Francis B. James, of Ohio, was here submitted at his request, so that it might be referred to the Auditing Committee. The report was as follows:

Report of the Treasurer of the National Conference of Commissioners on Uniform State Laws.

For the year ending August, 1905.

Receipts.

1904.			
Oct. 26.	To cash from Rhode Island	$85 00	
1905.			
Jan. 9.	To cash from Pennsylvania	100 00	
Feb. 2.	To cash from American Bar Association .	500 00	
16.	To cash from Ohio	100 00	
June 9.	To cash from American Warehousemen's Association	1,500 00	
			$2,285 00

Disbursements.

1904.			
Oct. 26.	By cash Amasa M. Eaton	$30 00	
1905.			
Jan. 9.	By cash Amasa M. Eaton	100 00	
Feb. 6.	By cash Prof. Samuel Williston	500 00	
			630 00
	Balance		$1,655 00

Amasa M. Eaton reports disbursements of said $130 as follows:

Expenses to South Carolina and Georgia	$76 38
Postage	26 47
Expressage	4 75
Printing	11 50
Stationery, copying book, etc.	2 00
Balance in hand of Amasa M. Eaton	8 90
	$130 00

I accompany this report by pass book in the Fifth National Bank of Cincinnati, returned checks, check book and certificate of the Fifth National Bank, dated August 12, 1905. I respectfully ask that this report be duly audited.

Very respectfully,

FRANCIS B. JAMES, *Treasurer.*

The President: The report will be received and referred to the Auditing Committee when appointed.

The next report is that of the Committee on Wills, Descent and Distribution, of which Mr. Smith is Chairman.

Walter George Smith, of Pennsylvania: I did not know until very lately, Mr. President, that I was the Chairman of this committee. Consequently, there is no report from the committee this year.

Walter S. Logan: Mr. President it seems to me that this is a good time for us to take a recess, and I move that we suspend our deliberations until 3 o'clock this afternoon.

A recess was then taken until 3 o'clock.

AFTERNOON SESSION.

Friday, August 19, 1905, 3 P. M.

The President: The next committee to hear from is the Committee on Marriage and Divorce, of which Mr. Richberg is Chairman.

John C. Richberg, of Illinois: I ask the indulgence of the Chair for the purpose of presenting a report from this committee later on in our sessions.

The President: Then the report of that committee will be passed for the present. Is there any report from the Committee on Conveyances, Depositions and Proof of Statutes of other States? Neither the Chairman of that committee nor any of the members of the committee are present. So I suppose that will have to be passed.

Is there a report from the Committee on Insurance, of which Mr. Libby is Chairman?

Charles F. Libby, of Maine: I understand, through the report of the Executive Committee that the Committee on Insurance was instructed to report on a certain matter only. That was the first intimation I had that such was the case, and that expression in the report of the Executive Committee is based on the suggestion of the Chairman of this Conference, I believe, that he hoped that at the next session the committee would report as to how many states have passed on a certain act in reference to which I reported as to the State of Maine. Now I am in the position that I suppose quite a number of gentlemen are at this Conference, that is, of not knowing exactly what we were expected to do. In fact, the report of our proceedings of last year did not reach me until a day or two ago, and I did not know that I was still the Chairman of this committee. I think the President will remember that I made the suggestion to him that there was a gentlemen on that committee recently appointed who had given a great deal of attention to insurance matters and I thought he should be made the Chairman of the committee.

However, so far as the matter referred to the committee last year is concerned, I may say that I have not been able to find that any state has paid any attention to the act relating to insurance, which act was recommended by the Conference at Denver, excepting the State of Maine, and I regret to

report that, while we have had a partial success in that state in passing the act, it was not altogether a complete one. In other words, the act passed the Senate, but was defeated in the House. I might also state that practically the same fate befell the Negotiable Instruments Act. I have myself been five times before the Judiciary Committees of our legislature urging the passage of that bill, but it was not until the last session that I was able to get it reported by the Judiciary Committee, it having always theretofore been recommended that it be referred to the next legislature. This year I did succeed in getting a favorable report from the committee and the bill went through the House apparently without opposition, but when it got to the Senate it met with the opposition of certain conservative members of our profession, and they succeeded in postponing favorable action upon it. I regret to say that most of the opposition in my state has come from members of the legal profession.

I believe I am not asked to report upon the whole subject of insurance; I do not understand that our committee had any special matter referred to them. I should be glad to know whether or not the bill I have referred to has ever gotten before the legislature of any other state. Some years ago we recommended that the right of trial by jury secured to us by most of the constitutions of the several states should remain inviolate even where fire insurance companies were involved, and we drafted a bill which we recommended for passage restoring the right to trial by jury on questions of fact relating to damage by fire. At the time this act was drafted I supposed that really the American people had a great respect for trial by jury, but I have reluctantly come to the conclusion that they do not care very much about the subject. If it has been presented and discussed before the Judiciary Committees of the several legislatures I should be glad to know it. In common with other gentlemen of this Conference, I suppose I represent a certain class of corporations. I suggested to our legislature that if they were really going to withdraw corpora-

tions from jury trial I should like to have the favor extended to a few other corporations, but I did not have very much success with that suggestion. Insurance seems to be at the fore, and, not only fire insurance companies, but life insurance companies have been having their difficulties, and a determined effort is now being made to have the Supreme Court reconsider some of its declarations on the question of what constitutes interstate commerce.

I shall not attempt to enlarge upon this question because I do not understand that the Committee on Insurance was expected to report except on what success had been had with the bills that this Conference had already recommended relating to insurance; and, aside from the State of Maine, I do not think any state has attempted to pay any attention whatever to the recommendations of this Conference on this matter of insurance.

W. O. Hart, of Louisiana: I would state that in the original report of the Louisiana Commission, which was prepared last year for submission to our legislature—we having a session of the legislature only in the even years—the passage of this law was recommended. A difference of opinion arose, however, among the members of the Commission, and, as we did not want to go before the legislature with a divided report, it was simply eliminated. But those members of the Commission who are in favor of the law hope to get it before the next session of our legislature.

The President: There can be no doubt that any legislation which would seek to deprive us of the right to trial by jury would be violative of the constitution of the state and would necessarily be null and void. Hence I think we are in no danger of losing the right to trial by jury even when suit is brought by a corporation.

Charles F. Libby: I think at the last Conference I referred to the peculiar view which our Supreme Court had taken on this question of constitutionality. They held that under the

constitution of our state, although the right to trial by jury as practiced hitherto remained inviolate, nevertheless the legislature had a right to create corporations, and, assuming that it was not necessary to take out insurance from those corporations, that the constitutional provision was not violated.

The President: But would it not be violated on behalf of the person who brings the suit? He has a right to a jury trial.

Charles F. Libby: But our Supreme Court held that the person waived that right in the form of the policy, which is known as the standard insurance policy.

Now, what I cannot understand is how the legislature can create a corporation and direct it to violate a provision of our constitution. They have said practically that a man can get insurance other than through corporations. As a matter of fact, a man cannot do any such thing.

To speak plainly, I do not look upon this decision with that respect that I always desire to do to any emanation from the Supreme Court of Maine. It seems to me they have overlooked some element in that question. This whole thing simply emphasizes the very great power that the insurance companies have in this country with legislators and insurance commissioners of the several states. In fact I came across an editorial this morning in the New York *Sun* referring to the fact that either the commissioners on insurance of the several states blackmailed the companies or else the companies owned the commissioners. Of course I am not disposed to stand by such a very broad statement as that, but there are some things in my own state which lead one to believe that the Commissioner of Insurance and the life insurance companies are on very intimate and cordial terms. Having twice met the united strength of the insurance companies before our legislature, I am disposed to repeat what I stated at the last Conference, that I entertain a wholesome respect for the influence which they exercise before our legislature. They did not succeed,

however, in defeating this bill without spending some money, legitimately, I suppose, but at the same time the lobby was somewhat strong in order to defeat it.

The question of insurance is going to be a matter of a great deal of debate, and possibly of great importance among legal gentlemen and the Bar Associations. I observe that the President of the United States has recently been waited upon by distinguished counsel and by the representatives of life insurance companies, and that the United States Supreme Court is to be asked to review its former pronouncement on the question whether insurance is commerce or not, and I have already received from a committee of the American Bar Association a majority and minority report in which this question is discussed.

I do not know whether we were wise or not in recommending the passage of what seems to be a very simple act, but so far as I am personally concerned I do feel that this right of trial by jury on questions arising under insurance policies, or under any other form of contract, is of a great deal of importance, not only to the members of the legal fraternity, but to the public at large, and for one I am disposed to fight for the continuance of jury trials, and I hope that this point of view may be shared by other members of the Conference.

The President: The Committee on Congressional Action. Is there any report from that committee?

The next is the Committee on Appointment of New Commissioners.

The next is the Committee on Purity of Articles of Commerce.

Walter George Smith: I beg the Chair's pardon, but I notice that the President of the Conference is the Chairman of that Committee on Appointment of New Commissioners.

The President: That is true, but there has been no meeting of the committee during the past year. I have kept up the course pursued in former years of sending out to the governors

of the various states the standard form of acts that we recommend for adoption in those states where no commissioners have been appointed. A few new commissioners have been appointed during the past year.

William H. Staake: I suppose the special action taken by the Executive Committee, in reference to memorializing Congress, was somewhat in that line?

The President: Yes.

Is there any report from the Committee on Purity of Articles of Commerce?

William H. Staake, of Pennsylvania, Chairman of the committee, presented the report.

(*The Report follows these Minutes.*)

On motion of Walter S. Logan, of New York, the report was received and placed on file, and its recommendations adopted and the committee continued.

The President: This completes the list of regular committees. Are there any other committees to report?

William H. Staake: I have noticed in our printed book "Committee on Uniform System of Accounting in State and Municipal Affairs." That is an error. That committee was discharged last year. The only other special committee is the Committee on Torrens System of Registration of Title to Land.

The President: I find that I have omitted one of the standing committees, the Committee on Uniform Incorporation Law, of which Mr. Logan is Chairman.

Walter S. Logan, of New York, Chairman of the Committee, presented the report.

(*The Report follows these Minutes.*)

On motion of Charles F. Libby, of Maine, the report was received and placed on file, and its recommendation adopted.

Walter S. Logan: I might say that I wish the members of the Conference would set themselves thinking upon this subject of uniform incorporation laws. I believe it is a subject which this Conference has to attack. It is, perhaps, the most

growing scandal in our system of government—the diverse incorporation laws of different states and the bidding of states against each other for this incorporation business. New Jersey is supporting itself by its license tax on corporations. West Virginia is pretty nearly doing the same thing. I understand Nevada is doing it and other states are trying to do it. If it keeps on, they will not only support themselves, but make a profit out of it, and at the expense of the good order and the honest administration of the law of the state. The committee is not wise enough to meet that problem all by itself and it wants all the assistance it can get, and I do wish before we adjourn there might be an opportunity for discussion on the subject so that some suggestion helpful to the committee might materialize.

The President: If the Committee on Nominations is ready to report, we may as well receive their report now.

Francis B. James: Mr. President, the Committee on Nominations beg leave to report as follows, recommending the following gentlemen for election as officers of the Conference for the ensuing year:

For President: Amasa M. Eaton, of Providence, Rhode Island.

For Vice-President: Charles E. Shepard, of Seattle, Washington.

For Treasurer: Talcott H. Russell, of New Haven, Connecticut.

For Secretary: Alfred E. Henschel, of New York, New York.

For Assistant Secretary: Glendinning B. Groesbeck, of Cincinnati, Ohio.

On motion of Walter S. Logan, the ballot of the Conference was cast in favor of the election of the nominees named by the committee, and they were declared duly elected officers of the Conference for the ensuing year.

The President: Gentlemen, I thank you for this renewed

expression of your confidence, and I assure you that I will endeavor to use my utmost efforts in carrying out the objects aimed at by this organization.

I have a growing sense of the extreme importance of the work that we are engaged in. In the community at large there is little appreciation of what it is that we are about, but I look forward to the time when it will be more fully realized than it is now that we are engaged in a great work. This Conference should embrace members from every state in the union, and I think our meetings should be more fully attended than they are, and I hope that in future we shall be able to secure a larger attendance and a representation from every state.

Walter S. Logan, of New York: I should like to hear a speech of acceptance from the Vice-President elect.

Charles E. Shepard, of Washington: Fellow members of the Conference, I thank you heartily for the entirely unexpected honor conferred upon me. I came among you a stranger to all excepting to my old classmate of Yale, Mr. Logan, and I look upon my election as your Vice-President as a compliment to my state of Washington more than as a personal one to myself.

I am very glad to have been able to assist somewhat in the work you are doing. I corresponded with Mr. Eaton, and, with his aid and advice, I drafted the bill which was introduced in our legislature last winter providing for the appointment of Commissioners from our state to this Conference. Some of the members of the legislature thought it was going to be rather expensive for the state to pay the traveling expenses of three members to come way across the continent to attend this Conference, and so I had to make a concession that only the expenses of one Commissioner each year should be allowed, and my colleagues on the Commission were kind enough to designate me as the Commissioner to attend this year.

Charles F. Libby, of Maine: At the proper time I want to

bring to the attention of the Conference the question as to how far the action of the Conference in reference to any law that we may recommend is binding upon the members of the Conference. As Chairman of the Committee on Insurance, I have been somewhat surprised to find that only one state has apparently paid any attention to the insurance act recommended by this Conference.

S. A. Williams, of Maryland: What about the Negotiable Instruments Act in Maine? Have you passed that act there yet?

Charles F. Libby: I have made desperate efforts to do so. That is what I am coming to—whether at least some effort should be made to carry out the recommendations of this Conference. Whether each Commissioner is at liberty to disregard the recommendations of the council, but is simply to exchange views, and then do as he pleases so far as the respective legislatures are concerned. What has emphasized this matter with me is this very question of insurance. It is some four years since we recommended the act, and I supposed it had some sort of binding force upon us as a body—that we were to present the act to our legislatures and at least secure an expression of opinion from the appropriate committee as to whether or not they would accept it or otherwise. Now it seems to me folly to meet here and pass recommendations and then have no sort of action taken upon them by the several legislatures to whose attention they are supposed to be called, and I think we ought to understand whether or not the matter is binding upon us as Commissioners and whether it is our duty to recommend these acts, or whether we are simply to take such action as appears on the whole most fitting to us as individuals with reference to the acts that have been recommended by this Conference. I assume that if the majority of the Commissioners make a recommendation, it is binding upon all of us, whether it conforms entirely to our notions or not, and I think the several Commissioners should present those acts to the legislatures of their states and endeavor to have

them enacted into the law of those states. It does not amount to very much to meet here and reach certain conclusions and after that have nothing done.

I call this matter up simply to know what the understanding of the Commissioners is as to the binding effect of any recommendation of the Conference.

R. W. Williams, of Florida: The views of the gentleman from Maine coincide entirely with my own as to the duty of Commissioners, and I am glad the opportunity has been offered of making what it seems to me should be made here by the representatives of every state at every meeting, namely, a report of what has been done by each Commissioner, or by anybody else in his state, towards obtaining the adoption of the laws recommended by this Conference. On this very subject of insurance I may say that a great deal has been done in my own state, though nothing has really been accomplished. Yet a statement to the Conference might be worth something if we heard from each Commissioner what he has done, and, if he did not succeed in doing anything in his own state, why he did not succeed. Now, after we agreed upon this insurance law, it was more than a year before there was a session of the legislature in my state, which meets biennially. Under the act creating a commission, a report has to be made to the governor. Now, such a report was made and a copy of that act submitted. I procured from the governor two years ago, and again this year, in his message to the legislature, a recommendation for the adoption of that bill, but it was not adopted and it did not receive any report from the committee to which it was referred. It was impossible to get a report. We have had no questions in my state on insurance that have agitated the people at all. Hence, the legislature was desirous of avoiding any question that would raise an issue with the insurance companies. Some years ago the legislature passed a bill in reference to insurance binding the companies to pay, in case of loss by fire, the full amount insured. There was a great deal of difficulty about that, and finally another bill

modifying it somewhat was passed. Since then our legislators have been desirous of raising that question. There is no direct opposition to it, and there is no man who can find any fault with it except possibly the insurance men themselves; but it has been in my state simply a desire not to get into a wrangle again in the insurance business as they did some years ago.

There is another matter that I should like to state to the Conference in the absence of any report from the Committee on Marriage and Divorce. When this Conference met at Denver I was in the position of having to report a failure to obtain the passage of our procedure bill in divorce, because at that very session of our legislature, in order to accommodate a gentleman from New York, the legislature that had been asked to pass that bill passed a bill granting divorce on the ground of insanity. Two years ago we made a desperate effort to repeal that bill, but we failed because half the members of the Senate that had passed that bill held over. This year, however, we have passed the repealing bill. So we have gained that much in that direction.

William H. Staake, of Pennsylvania: It seems to me that the act which we recommend to the different commonwealths should be our guide. That ought to indicate what we are for. Now I have before me the act that we submitted to the Congress of the United States, which provides that within thirty days after the passage of the act the governor of each state shall appoint three Commissioners, who shall constitute a Board of Commissioners for uniformity of legislation in the United States. As I take it, each individual board constitutes a board of the separate states, and it may have many duties to perform other than the one duty of conferring in this meeting with similar boards of Commissioners from other states.

I take it that one of the objects we confer about is simply with the view, that we may obtain a larger and more comprehensive view of the subjects which are under discussion here, and I take it that under the act by which we are appointed it

becomes a part of our duty to report to the governor, and through him to the legislature, all that this Conference of Commissioners have actually recommended. But I have never felt that it became obligatory upon the individual Boards of Commissioners to do more than that. For instance, as in my own state, we have a very efficient committee of the Pennsylvania State Bar Association, of which my friend, Mr. Smith, is chairman—and it reports each year to our State Bar Association, and I am very glad to say that anything which the Pennsylvania State Bar Association—hitherto has recommended the state legislature has approved. Its voice on any subject has been accepted by the legislature, and we have had no practical difficulty in getting the legislature to pass the acts which have received the unanimous recommendation of our State Bar Association. But when we report the results of our Conference with this Board of Commissioners—and it is our report, I may say, which has been included in the report of this Committee on Uniform Laws of the Bar Association—and if the large body who generally attend our Bar Association meetings, between two and three hundred men, approve of the acts recommended by this National Conference of Commissioners, and they find that our own existing legislation practically comprises the same provisions and requirements as the proposed law, and they consider that the existing law of the state is fully as good as the proposed law which the Conference has recommended, perhaps the Bar Association would not recommend it; but, notwithstanding that, when our Board of Commissioners comes to make up its report to the governor it reports everything which has taken place in this National Conference for the information of the governor, and he in turn communicates it to the legislature.

Now, I feel that the object of our Conference is that we are to confer with each other; we are here to acquire all the knowledge we can obtain by contact with each other and by intelligent and thorough discussion; and, while I trust that in the main we shall all agree so far as our recommendations are

concerned, yet I do not feel that this body is of a character to make it obligatory upon those who come here and participate in the Conference to go to their respective state legislatures and, so to speak, make a fight for the recommended legislation before their legislatures.

Walter George Smith, of Pennsylvania: I have listened with a great deal of interest to what has been stated by the preceding speakers, but I am constrained to say that it is entirely out of order. There is no motion before the Conference at this moment, and therefore a desultory debate on this subject takes a great deal of time from matters that should receive our attention.

Charles F. Libby, of Maine: I move, Mr. President, that it is the sense of this Conference that it shall be the duty of the Commissioners from the several states to report to the chairman of each committee upon the subjects which each committee has in charge as to the action taken during the preceding year upon the matter either judicially or legislatively.

Walter George Smith: I will second the motion, but if the Conference passes it and there comes no report of various measures heretofore recommended by the Bar Associations—as, for instance, the question of insurance, which has been acted upon by the Bar Association of Pennsylvania and refused, the Chairman of the committee must not be disappointed or feel that the Commissioners from Pennsylvania have failed in their duty under this motion. The same statement applies to the bill for divorce. Gentlemen, of course, will bear in mind that this Conference is a changing body. These various proposed acts were passed and recommended a number of years ago, and since that time the membership of the Conference has changed considerably. Now, you cannot expect that there will be any obligation of any kind to constrain the mind of a Commissioner who was not enlightened by the debate upon these proposed acts to support those acts, particularly when they have already become ancient history in

the state from which the Commissioner comes. The Executive Committee has already, it seems to me, shown a great deal of energy in securing reports from all members of Commissions, and it will be just as easy for the members in reporting to the Executive Committee to duplicate their report; but I trust our learned friend will not press the point that seems to be in his mind and of which he spoke with a considerable degree of earnestness, that when an act has passed this Commission and been recommended by it, then no member of the Conference shall have any individual view as to the wisdom of the act. I do not say that I disagree with him, but I certainly think in justice to the Conference that any member who proposes to oppose that act should say so here on the floor. I think it would probably be the feeling of the members that an act which passed by a scant majority is equivalent to an act that is defeated. I think there ought to be the utmost loyalty towards the work of this Conference by its members, and I think there will be; but I deprecate agitating the question of putting anything upon our minutes in the way of a resolution binding the judgment and conscience of members of the Conference; I think it is unwise to raise that point.

Charles F. Libby: I trust that no one will think there is any sense of disappointment on my part from what I have said. It is the actual condition of affairs that has led me to inquire what the understanding among the members of the Conference is as to the effect of the recommendation of any act by this Conference so far as requiring action on the part of the State Commissioners is concerned. When we find that an act has been recommended four years and that practically no action has been reported upon it, except by one state, I think it is not improper to infer that there has been a lack of consideration in the other states as to the act itself. It may be, as in Pennsylvania, that the course is for the Commissioners to report to the State Bar Association, and, if they find that the Bar Association is not disposed to support the meas-

ure, then to consider that it is unwise to present it to the legislature.

William H. Staake: Pardon me. The Commissioners from Pennsylvania do not report to the Bar Association. We have in our State Bar Association a Committee on Uniform Laws, which is a separate and distinct committee of the Association, and that committee does communicate with the Commissioners, and then it reports to the Association what has taken place here; and in every case, I believe, all the recommendations are reported in that committee's annual report to the Association, together with their suggestions, and they are discussed by the members of the Association. As Commissioners, we only report to the governor of the state, and we have done that regularly.

Charles F. Libby: Then, perhaps, the word I used, "report," was not well chosen; I should have said consult with members of the State Bar Association. It is not that I want to urge upon the Commissioners any action that they would not themselves approve of, but that the several bills recommended shall receive such attention that this Conference will know what the attitude of State Bar Associations and of legislators is towards those bills so that we may either drop them or continue to press them in the hope that final uniform action may be secured. All I have in mind in bringing this matter to the attention of the Conference is to have an understanding as to what it is expected the Commissioners of the several states will do with the recommendations of this Conference, and to have a report made so that we may see what the result of our recommendations has been in the way of securing approval or disapproval in the several states. Far be it from me to wish to bind gentlemen beyond the point which we should all feel was wise. I supposed, however, that I had understood that a recommendation finally passed by this Conference did impose a responsibility upon the several Commissioners. I did not suppose it was open to me to pass altogether upon the wisdom or unwisdom of a measure that had been debated and finally approved by

the Conference. I supposed it was my duty to recommend it to my legislature, and I have assumed that it was duty to appear before the Judiciary Committee of my legislature and state as fairly as I could the reasons which had led to the recommendation. At least that is what I have attempted to do. I think some action is absolutely required upon our recommendations. I think we want to know whether our recommendations have a responsive action—favorable, as we hope, or, if unfavorable, we want to know that—from the legislatures of the several states. Otherwise I do not see that we can know what progress we are making in respect of the matters that we here pass upon. It may be, too, that we shall find that in some cases we have made recommendations which it would be advisable to reconsider. So it is simply for our own information and in order to bring about some practical results that I have made this motion.

The President: Will the Conference pardon me if I make a few remarks on this subject? So far as it is proposed that each one of us shall enlighten all his fellow-members as to the progress made in his state, I think this move is an excellent one. Whether that could be done through the Executive Committee, or whether the members should be individually called upon here to state to their colleagues what has been done in their states, is a matter for the Conference to decide as to which plan is best; but as to the other matter it seems to me there can be no room for doubt as to what our duty is after an act has been formally adopted by this Conference. So far as I can now recollect, not one of our acts which we have recommended has been so recommended except upon the unanimous vote of the Conference. I think, as Mr. Smith has stated, that if anyone does feel for any reason that he must oppose anything recommended here, he should say so. The Negotiable Instruments Act was discussed year after year, and it was finally adopted by a unanimous vote. It seems to me that under those circumstances it is the duty of every member of the Conference to recommend the passage by the legislature

of his state of every act that we here recommend. Of course that does not meet the special case suggested by Mr. Smith, because it may be that after the lapse of years new members may come in and they are not bound.

Charles F. Libby: It is suggested to me that perhaps it would be better to have these reports made to the Executive Committee, and I am quite willing to follow that suggestion, my only object being to get definite information annually as to what has been done in the several states respecting the acts which we have recommended.

With the permission of the Conference, therefore, I will put my motion in this way:

Resolved, That the Commissioners from the several states be requested to report at each annual Conference to the Executive Committee what action, if any, has been taken by the legislatures of their states upon bills recommended by this Conference, and also any judicial decisions upon such subjects.

John C. Richberg, of Illinois: I am not opposed to this resolution, but it strikes me as a little peculiar. This information which is sought is not simply for the Executive Committee, but is for all the members of the Conference. By reporting this information to the Executive Committee, this body receives no information. Then it would devolve upon the Executive Committee in turn to report to the Conference. Why not simplify the matter and give us that information right here in the open Conference by having a roll call of the members and let each member report orally.

R. W. Williams, of Florida: That was the practice some years ago in the Conference, and I always thought it was a good practice.

William H. Staake, of Pennsylvania: As I understand the resolution, the idea is that members shall report to the Executive Committee in writing as soon as any action is taken in their states upon any measure recommended by the Conference.

John C. Richberg: I would offer an amendment to the reso-

lution to the effect that the State Commissioners shall report annually, upon the first day of the Conference, directly to the Conference.

W. O. Hart, of Louisiana: In line with what the gentleman from Illinois has stated, our Commission last year, having been able to accomplish some results the first year of our appointment, prepared a very full report and caused it be printed, and a copy of that report was sent to every member in advance of the meeting and copies were also distributed at the meeting. The reason we did not follow a similar course this year was because we have had no legislative session this year. Now it would seem to me that the suggestion of the gentleman from Illinois does not go far enough. I think the reports of the Commissioners from the various states should be in writing and should be made a part of our record.

But I did not rise expressly to make this suggestion, but to call the attention of the Conference to the fact that a report of the Committee on the Torrens System of Registration of Title to Land was not called for by the Chair. Now that committee has never had a meeting. Since I have been a member of the Conference, I think no other member of the committee has attended. I had hoped to present to this Conference the proposed law which is to be submitted at the next session of the Louisiana legislature on the Torrens system, but it has not yet been printed. Mr. Kernan and myself are members of that Commission in our state, but the Chairman of the Commission was a judge of our Supreme Court, and he was ill for some time and was prevented from being with us so that we could complete the report. As soon as that report is printed, which will be in the course of the next three months, I shall take pleasure in sending a copy of it to each member of this Conference, and we shall be glad to receive any suggestions that members of the Conference have to make on the subject. I do not say that the law that we present will be the basis of a uniform law, but it will be something in that line.

In the report of the Executive Committee submitted this morning it was stated that later on in the session of this Conference there would be presented a draft form of Constitution and by-laws for the Conference. Now it would seem to me that the proper time to consider the resolution providing for the Commissioners to report to the Executive Committee would be when the proposed Constitution comes up for consideration. I therefore move that the consideration of the resolution presented by Mr. Libby be postponed until the Constitution and by-laws are under discussion.

Charles F. Libby: I will accept the suggestion of the gentleman from Louisiana, and will withdraw my resolution for the present.

The President: The Chair would appoint as the Auditing Committee, to audit the reports of the Treasurer, Frank M. Higgins, of Maine, and William H. Staake, of Pennsylvania.

The Conference then adjourned to Saturday, August 19, 1905, at 9.30 A. M.

Second Day.

Saturday, August 19, 1905, 9.30 A. M.

John Garland Pollard, of Virginia: Mr. President, I desire to offer the following resolution:

Resolved, That the Secretary be instructed to have printed as an appendix to the report of this session all acts heretofore approved by the Conference, except the Negotiable Instruments Law, with date of approval; each act to be followed by a list of the states in which it has been adopted or is substantially in force.

William H. Staake, of Pennsylvania: I second that resolution.

The resolution was adopted.

William H. Staake: I move that so much of the President's address as referred to Mr. Baldwin's paper on Desertion be referred to the Committee on Marriage and Divorce. That committee has now before it that portion of the address of last year referring to the subject of Marriage and Divorce and I think that this subject of desertion is a kindred one, and that it would be well to refer that part of the address of this year to the same committee.

Charles E. Shepard: I second the motion.

The motion was adopted.

The President:

The report of the Auditing Committee has been handed in, and I will ask the Secretary to read it.

The Secretary:

"NARRAGANSETT PIER, August 18, 1905.

"The undersigned, Auditing Committee appointed by the Chair, report that we have examined the accounts of Francis B. James, Treasurer, as to the items charged and discharged thereof, and find the same correct.

F. M. HIGGINS,
WM. H. STAAKE."

On motion, the report of the Auditing Committee was received and the committee discharged, and the report of the Treasurer heretofore submitted, adopted.

R. W. Williams: I move that all the topics of the President's address, not already referred to special committees, be referred to the appropriate committees.

The motion was seconded and adopted.

The President: I understand that the Committee on Commercial Law are now ready to report.

Francis B. James, of Ohio: Mr. President and members of the Conference: The Committee on Commercial Law desires to submit a special report on the proposed Sales Act. The committee has taken up the act word by word, line by line and section by section with Professor Williston, and we have agreed

upon a number of changes in the draft of the code. Therefore, to save time and to expedite the consideration of the matter, Professor Williston will state to the Conference what those changes are, and when we have finished the consideration of those changes then the committee will offer a resolution as to putting the matter in form for the purpose of securing the enactment of the law in the various states.

The President: We will hear Professor Williston.

Samuel Williston, of Massachusetts: Mr. President and gentlemen: This Sales Act has been printed in two forms—in the small pamphlet and also in the large pamphlet of proceedings of the last Conference at page 165. I suppose all members of the Conference have either one or the other of those copies before them.

(*The details of the discussion upon the various sections of this act are omitted.*)

A recess was then taken until 3 o'clock.

Afternoon Session.

Saturday, August 19, 1905, 3 P. M.

The discussion of the Sales Act was continued.

(*The details of the discussion are omitted.*)

On motion of Francis B. James, of Ohio, seconded by W. O. Hart, of Louisiana, the draft of the Sales Act was approved.

The President: Is it the pleasure of the Conference to hold a session this evening?

Francis B. James: Professor Williston and Mr. Mohun, who have been engaged in preparing the draft of an act on warehouse receipts, will not be ready to present that act until Monday morning. The Committee on Commercial Law desire to report the draft of that act, and have no recommendations

to make in reference to it at the present time, but suggest that the same procedure be taken with it that has been taken with respect to the Sales Act, which is that it be thrown open for general discussion, and thereafter resubmitted to the committee for the purpose of being redrafted. We further suggest that the discussion of that act be made the special order for half-past nine Monday morning.

The President: If there is no objection, the suggestion made by the Chairman of the Committee on Commercial Law will be the order of procedure at the opening of the session on Monday morning.

The resolution of John Garland Pollard, of Virginia, providing for printing as an appendix to the report all bills heretofore recommended, except the Negotiable Instruments Law, was reconsidered.

John Garland Pollard: Mr. Chairman, with the assistance of Mr. Hart, I have put this resolution in a little different form, and it now reads as follows:

Resolved, That the Secretary be instructed to have printed as an appendix to the report of this session all bills heretofore recommended by the various Conferences, except the Negotiable Instruments Law, with dates of approval, and each bill shall be followed, as far as practicable, by a list of the states in which the same have been adopted or is substantially in force.

The resolution was adopted.

W. O. Hart, of Louisiana: I desire to offer the following resolution:

Resolved, That the Executive Committee is hereby authorized and requested to memorialize Congress for the appointment of Commissioners for the promotion of uniformity of legislation in the United States to represent the Indian Territory and the insular possessions of the United States.

Talcott H. Russell, of Connecticut: I second that resolution.

R. W. Williams, of Florida: The acts under which these

Commissioners were appointed do not contemplate anything of that kind. They provide only for a Conference of Commissioners from the various states, and we are supposed to handle only questions that are subject to state legislation and not those relating to federal legislation.

W. O. Hart: This has nothing to do with national matters, but it is simply that Congress shall appoint Commissioners to represent the Indian Territory and the insular possessions of the United States. We want the entire United States represented in this Conference.

The President: And Alaska also.

W. O. Hart: Yes, Alaska. I will add Alaska to this resolution.

The resolution was adopted.

William H. Staake, of Pennsylvania: Mr. Chairman and gentlemen: In the report of the Executive Committee it was stated the committee would submit a form of Constitution and by-laws to be adopted by this body. I have the draft of it here and I will read it.

The proposed draft of Constitution and by-laws was then read by the Chairman of the Executive Committee and discussion was had thereon.

R. T. Barton, of Virginia: I move the adoption of the Constitution and by-laws as read by the Chairman of the committee and as they have now been amended.

Walter George Smith, of Pennsylvania: I second that motion.

The Constitution and by-laws were adopted.

(*The Constitution and by-laws as finally adopted appear in the beginning of these proceedings.*)

The Conference then adjourned to Monday, August 21, 1905, at 9.30 A. M.

THIRD DAY.

Monday, August 21, 1905, 9.30 A. M.

The President: The special order for this morning is the consideration of the draft act for codifying the law of warehouse receipts.

(*The details of the discussion are omitted.*)

A recess was then taken until 3 o'clock.

AFTERNOON SESSION.

Monday August 21, 1905, 3 P. M.

The discussion of the Warehouse Act was continued.

(*The details of this discussion are omitted.*)

John C. Richberg, of Illinois: Mr. President and gentlemen: I beg to present the following brief report of the Committee on Marriage and Divorce:

Your Committee on Marriage and Divorce, having been in session and a majority of the committee being present, beg leave to report for adoption the preamble and resolutions submitted herewith.

JOHN C. RICHBERG,
Chairman,
WILLIAM H. STAAKE,
S. A. WILLIAMS.

"WHEREAS, The American Bar Association and the Commissioners on Uniform State Laws in the United States of America have been engaged in the consideration of uniform marriage and divorce laws for the various states of the United States, and the gains made thereby have laid the "foundation of what may some time become a common and effective divorce code for the whole union"; and,

WHEREAS, The results of the labors of these bodies, as contained in their annual reports and in the addresses of the

Presidents of the Commissioners on Uniform State Laws, have made a valuable record of most careful investigation and examination into the subject of marriage and divorce, to which record the Commissioners on Uniform State Laws refer those interested in the further study and investigation of these subjects; and,

WHEREAS, The labors of these bodies in the past have aroused public sentiment on these subjects and have received the approval of representative organizations throughout the United States of America; and,

WHEREAS, This Conference has been advised of the invitation lately extended by the Governor of the State of Pennsylvania to the Governors of the other states of the United States of America to send delegates to a Congress to assemble in Washington, District of Columbia, to consider the existing laws on divorce in the various states with the view of securing a uniform divorce law in all of the states.

Therefore, be it Resolved, That this Conference has learned with satisfaction that an invitation has been extended by the Governor of Pennsylvania, on the authority of the legislature of that state, to the Governors of other states to appoint delegates especially charged with the duty of considering the existing laws on divorce and divorce procedure with a view to securing uniformity of legislation among the different states on these subjects.

Resolved, further, That this Conference welcomes any assistance in solving the many and difficult problems relating to the divorce laws of the several states and territories, and will be glad to aid the proposed Congress in any way within its power.

On motion, the report was received and the resolutions appended thereto unanimously adopted.

William H. Staake, of Pennsylvania: Mr. President, I would state that the Governor of Pennsylvania has delegated the three Commissioners who represent that state in this Conference as delegates to the proposed Congress, and I would suggest that, as there are other gentlemen present who have been commissioned by the Governors of their states as delegates to that Congress, it would be well if at some time during our

stay at Narragansett Pier we should have an informal meeting of such delegates.

The President: Unless there is objection, I would suggest that tomorrow evening at half-past eight o'clock would be a good time for such a meeting.

William H. Staake: I think that would be quite agreeable, sir.

There is another matter that I might bring up at this time. Last year, and again this year, Judge George M. Sharp, of Maryland, asked if we purposed taking any action in regard to the establishment of uniform rules by Boards of Law Examiners in the various states; and, as I understand it, there was a memorial submitted by Judge Sharp on the subject, but no action has ever been taken upon it.

The President: The Chair never heard of it before.

Walter George Smith, of Pennsylvania: Judge Sharp has spoken to a number of us informally on the subject, and the consensus of opinion seemed to be that it was not a subject that we should take up in this Conference, but that we should wait until the subject was brought before the Section of Legal Education of the American Bar Association, and, if it comes to us at all, that it should come with the backing of that body. I think Judge Sharp himself takes that view of it.

John C. Richberg, of Illinois: Would it not be well for the Governors of the states to appoint Commissioners to take that subject up?

Walter George Smith: No, I do not think it is of enough importance for that.

The President; Judge Sharp is not in the room, so we cannot have the benefit of his views upon the subject.

P. W. Meldrim, of Georgia: Judge Sharp has asked me to submit to the Conference a proposed bill on this subject, which I have here, and I move that it be referred to the Executive Committee.

W. O. Hart: I second that motion.

Walter George Smith: I regretfully move to lay that motion on the table. I think the procedure that I have suggested would be the proper one.

The President: The Chair would rule that the motion of the gentleman from Georgia is proper because it simply has in view the reference of the bill prepared by Judge Sharp to the Executive Committee of this Conference and does not call for action by the Conference on the merits of the subject.

The motion referring the matter to the Executive Committee was adopted.

A recess was then taken until 8.30 o'clock.

Evening Session.

Monday, August 21, 1905, 8.30 P. M.

The discussion of the Warehouse Act was continued.

(*The details of this discussion are omitted.*)

Francis B. James, of Ohio: Mr. President, if we are through with the consideration of this draft act. I have some resolutions to offer which the Committee on Commercial Law wish to submit for adoption by this Conference. The first one is as follows:

Be it Resolved, By the Commissioners on Uniform State Laws at their Annual Conference held this 21st day of August, 1905:

1. That out of any moneys coming into the hands of the Treasurer there shall be paid to Professor Williston the sum of $350, the balance due him for preparing the Sales Code, so soon as he shall have perfected said code, with headlines and annotations, and revised the proof thereof;

2. That out of the special warehouse receipts fund there shall be paid to Professor Williston the sum of $500 on account;

3. That out of the special warehouse receipts fund there shall be paid to Mr. Barry Mohun the sum of $250 on account.

On motion, the resolution was adopted.

Francis B. James: The committee next offers the following resolution:

Be it Resolved, By the Commissioners on Uniform State Laws at their Annual Conference held this 21st day of August, 1905:

1. That a draft bill be prepared to make uniform the law of bills of lading throughout the United States;

2. That Professor Samuel Williston be and he is hereby employed to draft said bill, and that his compensation therefor shall be five hundred dollars ($500) to be paid out of any available funds in instalments as the Committee on Commercial Law shall determine;

3. That Professor Williston shall prepare appropriate headlines for each section and appropriate notes to said sections;

4. That the Committee on Commercial Law cause to be printed said draft bill and annotations with appropriate preface, introduction and other matters that said committee may consider proper; that said committee shall distribute said printed draft bill and invite criticism and suggestion from members of the Conference, carriers, business men, commercial organizations, lawyers, judges, law teachers and law writers; said draft and criticisms to be submitted at the next meeting of the Conference;

5. That a sum not to exceed $100 be appropriated for the use of said committee for said printing and publication and the distribution of said draft bill when printed;

6. That it shall be the special duty of the Assistant Secretary to distribute said draft bill when printed.

On motion, the resolution was adopted.

Francis B. James: The committee also offers the following resolution:

Be it Resolved, By the Commissioners on Uniform State Laws at their Annual Conference held this 21st day of August, 1905:

1. That Professor Samuel Williston and Mr. Barry Mohun prepare appropriate headlines for each section of the draft bill on warehouse receipts and appropriate notes to each section;

2. That said draft bill be recommitted to the Committee on Commercial Law to be dealt with, revised and amended with

the aid and assistance of Professor Williston and Mr. Mohun, and that said bill be resubmitted at the next Conference for discussion and action;

3. That the Committee on Commercial Law cause to be printed said draft bill and annotations with appropriate preface, introduction and other matters that said committee may consider proper; that said committee shall distribute said printed draft bill and invite criticism and suggestion from members of the Conference, warehousemen, business men, commercial organizations, lawyers, judges, law teachers and law writers;

4. That a sum not to exceed two hundred dollars ($200) be appropriated for the use of said committee for said printing and publication and the distribution of said draft bill when printed, and to pay for the printing of the first draft of said bill;

5. That it shall be the special duty of the Assistant Secretary to distribute said draft bill when printed.

On motion, the resolution was adopted.

Francis B. James: Mr. Reid tells me that the American Warehousemen's Association will probably contribute $200 to pay for the expense of printing.

Albert M. Reid: I am not in a position to promise absolutely that it will do so, but I think I can assure you that you will get the money.

Charles E. Shepard, of Washington: I desire to offer the following resolution:

Resolved, That the members of this Conference accept. with much pleasure, the proffered hospitality of President Eaton and Mrs. Eaton for Tuesday, the 22d of August, at Providence.

As Vice-President of the Conference, gentlemen, I will put the question on the adoption of this resolution.

The resolution was adopted.

W. O. Hart, of Louisiana: I wish to offer the following:

Resolved, That the Executive Committee, in arranging the time for the Conference of 1906, fix the meeting thereof at least one week prior to the meeting of the American Bar Association.

That will give us an opportunity to have plenty of time for the business of the Conference, and we will not have to hurry through so as to conclude before the meeting of the American Bar Association commences.

William H. Staake, of Pennsylvania: Oh, no; we do not want to put it so far ahead as a week.

Charles E. Shepard: I think a better attendance would be secured at our Conference if we held our meeting to begin immediately following the meeting of the American Bar Association.

The President: The Chair would suggest that that matter be left in the hands of the Executive Committee.

W. O. Hart, of Louisiana: I move that the various Commissioners be requested to notify the Secretary as soon as any law recommended by the Conference shall have been adopted in their respective states, and that thereupon the Secretary shall so inform each of the members of this Conference.

Walter George Smith, of Pennsylvania: I will second that motion.

The motion was adopted.

W. O. Hart: I have just one more thing to bring up. I offer this resolution:

Resolved, That the Executive Committee be directed to memorialize Congress to adopt the Negotiable Instruments Law for the Indian Territory, Alaska and the insular possessions of the United States.

Walter George Smith: I second that resolution with the understanding that it goes to the Executive Committee.

The resolution was adopted.

S. A. Williams, of Maryland: I would suggest that, if possible, the Executive Committee see to it that the report of the proceedings of this Conference be placed in the hands of the Commissioners as early as possible, and, in any event, not later than the first of December.

William H. Staake, of Pennsylvania: I suppose the mere suggestion without any formal motion is all that is necessary.

Talcott H. Russell, of Connecticut: I do not know about that. I think we should have a motion to that effect.

S. A. Williams: Then I make that motion.

Talcott H. Russell: I second it.

The motion was adopted.

Charles F. Libby, of Maine: There may be some other matters which it will be advisable to bring before this Conference while we are at Narragansett Pier, and I therefore move that we adjourn now subject to the call of the President.

The motion was seconded and adopted.

The Conference then adjourned subject to the call of the President.

Fourth Day.

Wednesday, August 23, 1905, 6 P. M.

Pursuant to the call of the President, the Conference reconvened.

On motion, duly seconded, the resolution recommending the Sales Code to the legislatures of the various states for adoption was duly reconsidered.

On motion, duly seconded, section 39 of the Sales Code was tentatively changed so as to read as appears in the Sales Code as hereinafter set forth.

Francis B. James, of Ohio: The Committee on Commercial Law offers the following resolution:

Be it Resolved, By the Commissioners on Uniform State Laws at their Annual Conference held this 23d day of August, 1905:

1. That the draft Sales Bill be recommitted to the Committee on Commercial Law to be dealt with, revised and amended with the aid and assistance of Professor Williston, and that said bill be resubmitted at the next Conference for discussion and action.

2. That the Committee on Commercial Law cause to be printed said draft bill and annotations with appropriate preface, introduction and other matters that said committee may consider proper; that said committee shall distribute said printed draft bill and invite criticism and suggestions from members of the Conference, commercial organizations, lawyers, judges, law teachers and law writers.

3. That a sum not to exceed one hundred dollars ($100) be appropriated to the use of said committee for said printing, publication and distribution of said draft bill when printed, and to pay for the distribution of said draft of said bill.

4. It shall be the especial duty of the Assistant Secretary to distribute said draft bill when printed.

On motion, said resolution was duly adopted.

There being no further business, the meeting adjourned without day.

ALBERT E. HENSCHEL,
Secretary,

GLENDINNING B. GROESBECK,
Assistant Secretary.

ADDRESS OF THE PRESIDENT.

BY

AMASA M. EATON,

OF PROVIDENCE, RHODE ISLAND.

Fellow Members of the Conference:

In welcoming you to my native state, let me express the hope that you will find your stay here so agreeable and so profitable that you will come here many times again.

The importance of some reform in our marriage and divorce laws is emphasized by the events of the past year. The Inter-Church Conference on Marriage and Divorce, consisting of fifteen churches, was held in Washington, D. C., January 25 and 26, 1905. A "Second Address and Appeal to the Christian Public" was issued by the Conference, in which it is stated that

"in the matter of the relation of the state to the subject of divorce, the Conference has cordially accepted the guidance of the American Bar Association. That Association, at its meeting in 1900, approved an act respecting divorce which had been drawn up by the Commissioners on Uniform Laws appointed by about thirty of the states of the union. The act, so far as the first five sections are concerned, was adopted by the Conference, and highly approved as a decided step forward toward securing unity of legal procedure in the several states, in order to check and control hasty divorces and prevent the possibility of procuring fraudulent divorces for the purpose of remarriage. The Conference recommends the amendment of the sixth section of the act in the direction of the greater safety of society and the more complete protection of the home ——"

The sixth section of our act is as follows:

"After divorce, either party may marry again, but in cases where notice has been given by publication only, and the defendant has not appeared, no divorce or judgment for

divorce shall become final or operative until six months after hearing and decision."

The Inter-Church Conference asked that this section be amended so as to provide that if action is to be taken on the subject of remarriage, the innocent party shall not marry again within a year of the decree of divorce, and a just discrimination shall be made between the innocent and the guilty party, and providing further that the final decree shall not be entered until six months after decision; such six months, if allowed, to form part of the year.

I recommend that this subject be referred to the Committee on Marriage and Divorce, with instruction to report thereon at our next annual meeting. When we take into consideration that this Inter-Church Conference contains representatives of the Protestant Episcopal Church in the United States, the Presbyterian Church in the United States of America, the Methodist Episcopal Church, the Methodist Episcopal Church South, the Reformed Church in America, the Reformed Church in the United States, the United Presbyterian Church, the Evangelical, the Baptist Churches, the Congregational Churches, the Universalist Churches, the Unitarian Churches, the Reformed Presbyterian Churches, the Cumberland Presbyterian Church, and the Alliance of the Reformed Churches holding the Presbyterian System; when also we take into consideration the names of those signing the address and appeal, we must be deeply impressed with the significance of such support of our work and the necessity of co-operation on our part with such support. Especially is this so when we find that the amendment proposed by this powerful body of churches and of men is in the line of prevention of the procurement of divorce for the purpose of remarriage (too often but the mask for a legalized concubinage) and does not go to the impossible length proposed by some, of forbidding marriage of divorced persons. Such a position would have the unfortunate consequence of arraying the churches maintaining it against the law of the land, a position that was long held by the Mormon

Church, but which cannot successfully be maintained by any church consistently with American ideas of the respect and obligation of obedience that is due from all to the law of the land, so long as it remains the law.

Any attempt to fasten upon the American conscience an ideal inconsistent with the free development of human society must necessarily fail.[1]

It may well be doubted whether the prevention of marriage by those who have been divorced would raise the tone of sexual morality. It may well be that it would lower it. We may firmly believe there is a necessity for divorce laws and yet we may equally firmly oppose the scandalous abuse of legal proceedings that enables so many to resort secretly to the courts of other states to obtain divorce.

In England, a wife cannot obtain a divorce on the ground of her husband's infidelity, unless it is coupled with cruel and abusive treatment. "A husband can have his affairs, provided he does not make them public or beat his wife, but she must toe the mark."[2] This is the law in a country where the law of the church is the law of the land.

I cannot agree with the suggestion that has been made that a legislature cannot confer upon a court the power to grant divorces only when actual service of process shall have been made upon the respondent within the state where the petition for divorce is filed, irrespective of any question of domicile. Before courts could grant divorces in this country, the power was vested in the legislatures, and the exercise of this power by the particular legislature was independent of any question of domicile. Then why cannot the legislature confer the same power upon a court?

Such a law is compatible with the theory that, as marriage is a contract, the laws, relating to divorce, of the place where the contract was made became incorporated in the contract, and therefore such a contract can be annulled only in accordance with those laws.

[1] See "The Undercurrent," by Robert Grant, p. 306.

[2] do 324.

"Marriage is nothing but a civil contract. 'Tis true, 'tis an ordinance of God: so is every other contract; God commands me to keep it when I have made it."[1]

There is a practical difficulty in carrying out the idea suggested in this proposed amendment of a discrimination between the innocent and the guilty party in many cases of divorce, because it often happens that it is the morally guilty party who obtains the decree of divorce and who thus becomes legally the innocent party. For instance, suppose a married woman commits adultery or becomes a drunkard. The husband seeks divorce, yet because she is the mother of his children or because of the old love he wishes to shield her still. So they separate, and after the necessary time has elapsed it is so arranged that she files her petition for divorce upon the ground of desertion, to which he makes no defense. In due course she obtains a decree of divorce. Technically she is the innocent party. Is it right that a discrimination be made in her favor and that she should be allowed to marry again before her husband is allowed to remarry? Every lawyer who has had experience with divorce cases will realize the impossibility of application of an abstract moral rule by the civil power of the state acting through a law that must necessarily be general in its terms and under which it is impossible to pass upon the moral guilt of the parties.

Here is another instance illustrative of the want of any attempt to discriminate between the parties to a divorce suit. It arose in New York, where adultery is the only legal cause for divorce. The wife wanted a divorce and the husband did not. He yielded at last to her earnest desire and agreed not to oppose her petition. She filed it, and necessarily it was upon the alleged charge of adultery, and there had been no adultery. The problem was to manufacture enough testimony to procure a decree for divorce. The wife's lawyer proposed to the husband's lawyer that his client should take any other woman with him to a hotel, register his own name "and wife,"

[1] Selden, *Table Talk*—article "Marriage."

be shown together to a room which they need not enter, but a gripsack could be put down in it by a boy, and unseen by anyone they could walk off and pass out by another staircase and door. Upon the trial of the case, the husband making no defense, the hotel register, with the testimony of the clerk and of the boy who went up with them in the elevator and left them and their baggage in their room, would furnish all the evidence needed as legal proof of the commission of adultery.

There is a field in which all can work to prevent the evils of a lax divorce system. Let all who feel discouraged by the prevalence—the increasing prevalence—of divorces see to it that American fathers and mothers cease the indiscriminate indulgence of their children that is rapidly giving us the reputation throughout the world of being ruled by our children, and let them see to it that this indiscriminate indulgence, with its consequent leading to living for self alone, shall not unfit both sexes for matrimonial life. As has been said by Chief Justice Durfee, of Rhode Island, in a divorce suit, "marriage is a discipline as well as a delight." Undoubtedly a large part of the divorces obtained can be traced to the unwillingness of one or the other, or of both, to give up their own deep-rooted habits of self-indulgence. If the young of both sexes can be taught to live for others, it will be found that divorces will diminish in number before many years. No legislation will bring this about. We must depend upon the teachers, the ministers, and, above all, upon the fathers and mothers of the land to bring about this change. Divorces will diminish in number when young people are brought up better.

I am surprised with the laxity that leads many ministers to perform the marriage ceremony for couples of whom they know absolutely nothing, except that they come before them with a certificate or license from the county, town or city clerk's office and ask that they be united in marriage. The minister performing the ceremony does not even know they are the couple for whom the license is intended. Often he can form but an opinion of little worth whether they are minors or

of age. For all he knows, either or both may be already married, in which case he is unconsciously aiding the commission of the crime of bigamy. We see sometimes an article in a newspaper concerning the marriage of a couple by a minister before whom they appeared with a license followed by the immediate arrest of one or the other of the couple upon the charge of bigamy. Now all this could be easily stopped if every minister, or other person authorized to marry people, were to require the introduction to him of the couple by some one whom he knows. For no one would vouch for a couple introduced by him without knowing whether one or the other is already married or is a minor, etc. No notary thinks of taking an acknowledgment of a deed, etc., even though it may convey property of but nominal value, unless the party making the acknowledgment be introduced by someone whom he knows. No bank honors a check for even one dollar without voucher that the payee is the person intended. And yet, when it comes to one of the most solemn acts of our life, ministers may be found in abundance everywhere who will marry strangers the minute they come before them. Lawyers, notaries public and bankers are practical men of the world from whom in this respect ministers might well take a lesson.

Rev. Samuel W. Dike, the efficient Secretary of the League for the Protection of the Family, has published lately an article showing the alarming increase of bigamy, and he repeats the statement that has been made that the bigamies in Massachusetts are more numerous than the divorces. A case is reported of a man who married three women in eight weeks. He could not have done it had the officiating clergyman required such an introduction as I have spoken of above with the consequent knowledge it would have brought him of the man's antecedent life. In Germany, except in special cases, marriage must take place in the town where one of the parties resides. If the residence is temporary, the announcement of the intended marriage must be made in the place of permanent home. Upon dissolution of a marriage, either by death or

divorce, the fact must be entered upon the margin of the original record just as we enter the discharge of a mortgage. We have none of these simple precautions to make bigamy more difficult.

Our laws to check the desertion and non-support of families are equally lax. An exhaustive study of the laws of the various states on this subject has been published by William H. Baldwin, of Washington, District of Columbia, a member of the Board of Managers of the Associated Charities, to which I call your attention. He tells us that in forty-four of the fifty states and territories there are laws under which desertion and non-support of a man's family is a criminal offense. An impression has prevailed that extradition could not be demanded unless such offenses constitute felony under article IV, section 2, of the Constitution of the United States. But the words there used, "treason, felony or other crime," are broad enough to include even misdemeanors, as stated by Chief Justice Taney in Kentucky *vs.* Dennison, 24 Howard 66, approved in *ex parte* Reggel, 114 U. S. 642, in an opinion by Justice Harlan.

But even before Kentucky *vs.* Dennison the same results had been reached in the following cases:

Clarke's case, 9 Wend. (1832).
State *vs.* Buzine, 4 Har. (Del.) 572 (1847).
Hayward's case, 1 Sand. (N. Y.) 701 (1848).
Fetter's case, 23 N. J. L. 311 (1852).
In re Greenough, 31 Vt. 279 (1858).

And since Kentucky *vs.* Dennison:

In re Voorhees, 32 N. J. L. 147 (1861).
State *vs.* Hafford, 28 Iowa 391 (1869).
Brown's case, 112 Mass. 409 (1873).
People *vs.* Brady, 56 N. Y. 182 (1874).
Morton *vs.* Skinner, 48 Ind. 123 (1874).
In re Hooper, 52 Wisc. 699 (1881).

It may therefore be considered as settled that for desertion and non-support of his family an offender may be extradited.

The point is important, because in a majority of such cases the offender leaves the state for fresh woods and pastures new, where, after a shorter or longer period of time, he may perhaps add bigamy to his previous offense and start over again in married life.

After a thorough study of the laws of the various states, Mr. Baldwin submits the following draft of a law that I recommend for your careful consideration:

A Suggested Form for a Law.

The following outline of a law as to desertion or nonsupport may be modified as existing laws and circumstances require:

Section 1. Any person who shall, without lawful excuse, desert or wilfully neglect or refuse to provide for the support and maintenance of his wife in destitute or necessitous circumstances, or any person who shall, without lawful excuse, desert or wilfully neglect or refuse to provide for the support and maintenance of his or her minor children under the age of sixteen years in destitute or necessitous circumstances, shall be deemed guilty of a [felony] misdemeanor, and, on conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the [state prison or state penitentiary at hard labor for not more than three years, or in the] reformatory, county jail, workhouse or house of correction at hard labor for not more than twelve months, or by both such fine and imprisonment; and should a fine be imposed it may be directed by the court to be paid in whole or in part to the wife or to the guardian or custodian of the minor child or children: *Provided*, that before the trial, with the consent of the defendant, or after conviction, instead of imposing the punishment hereinbefore provided, or in addition thereto, the court, in its discretion, having regard to the circumstances and to the financial ability or earning capacity of the defendant, shall have the power to make an order, which shall be subject to change by it from time to time as circumstances may require, directing the defendant to pay a certain sum weekly for the space of one year to the wife, or to the guardian or custodian of the minor child or children, or to an organization or indi-

vidual approved by the court as trustee, and to release the defendant from custody on probation for the space of one year upon his or her entering into a recognizance, with or without sureties, in such sum as the court may direct. The condition of the recognizance shall be such that if the defendant shall make his or her personal appearance in court whenever ordered to do so within a year, and shall further comply with the terms of the order and of any subsequent modification thereof, then the recognizance shall be void, otherwise of full force and effect.

If the court be satisfied by information and due proof, under oath, that at any time during the year the defendant has violated the terms of such order, it may forthwith proceed with the trial of the defendant under the original indictment, or sentence him under the original conviction, or enforce the original sentence, as the case may be. In case of forfeiture of a recognizance, and enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid in whole or in part to the wife, or to the guardian or custodian of the minor child or children.

SEC. 2. No other evidence shall be required to prove marriage of such husband and wife, or that such person is the lawful father or mother of such child or children, than is or shall be required to prove such facts in a civil action. In all prosecutions under this act any existing provisions of law prohibiting the disclosure of confidential communications between husband and wife shall not apply, and both husband and wife shall be competent and compellable witnesses to testify to any and all relevant matters, including the fact of such marriage and the parentage of such child or children. Proof of the desertion of such wife, child or children in destitute or necessitous circumstances or of neglect to furnish such wife, child or children necessary and proper food, clothing or shelter is *prima facie* evidence that such desertion or neglect is wilful.

SEC. 3. It shall be the duty of the
in charge of any [state prison], reformatory, county jail, workhouse or house of correction in which any person is confined on account of a sentence under this law to pay over to the wife, or to the guardian or custodian of his or her minor child or children, or to an organization or individual approved by the court as trustee, at the end of each week, for the support of such wife, child or children, a sum equal to
for each day's hard labor performed by said person so confined.

(If justices of the peace or similar courts of lowest rank do not possess original jurisdiction in such actions already it should be vested in them; and, if not already possible, provision should be made by which the action can be begun on information, under oath, made by anyone having knowledge of the facts.)

The members of the Inter-Church Conference on Marriage and Divorce have added to our obligations to them by asking the President of the United States to request the Congress to enact appropriate legislation for the collection and publication of the laws and statistics from 1886 to the present time on marriage and divorce to supplement the excellent compilation already published. The President responded immediately by a special message to Congress asking for the necessary legislation, and in accordance therewith the following joint resolution was passed by the Senate and House of Representatives and was approved by the President February 9, 1905:

Resolved, That the Director of the Census be, and he is hereby, authorized and directed to collect and publish the statistics of and relating to marriage and divorce in the several states and territories and the District of Columbia since January first, eighteen hundred and eighty-seven; *Provided*, That such statistics as are now required by law be used so far as it is practicable to do so.

See United States Statutes at Large, Fifty-eighth Congress, 1903-1905, page 1282.

This information will prove of great assistance in the study of the difficult subject of marriage and divorce, and will help us in formulating appropriate legislation.

An important act has been passed by the legislature of Pennsylvania to secure uniformity of divorce legislation in the United States as follows (Acts of 1905, No. 24):

An Act authorizing the appointment of a commissioner to codify the laws relating to divorce, and to co-operate with other states in securing uniformity of divorce legislation in the United States.

WHEREAS, The constantly increasing number of divorces in the United States has become recognized as an evil of threatening magnitude, fraught with serious consequences to the well-being of our institutions and civilization; and,

WHEREAS, The diversity of legislative enactment in the several commonwealths composing the union is, in the opinion of the legal profession, of students of social science, and like investigators, a serious obstacle in the way of the correction of this evil; and,

WHEREAS, The President of the United States has drawn the attention of Congress to the necessity for uniformity in the divorce laws in every country; therefore,

SECTION 1. Be it enacted, etc., That the Governor of the Commonwealth be authorized forthwith to appoint three citizens of Pennsylvania, learned in the law, to examine and codify the laws of this state relating to the subject of divorce, and to report the result of their labors to the Governor for submission to the legislature.

SEC. 2. The Governor of the Commonwealth is further authorized to communicate, in the name of the Commonwealth, with the Governors of the several states comprising the federal union, requesting them to co-operate in the assembling of a congress of delegates from such of the states as take favorable action upon the suggestion; said congress to meet at Washington in the District of Columbia at such a time in the near future as shall be agreeable, for the purpose of examining, considering and discussing the laws and decisions of the several states upon the subject of divorce with a view to the adoption of a draft for the proposed general law, which shall be reported to the Governors of all the states for submission to the legislatures thereof with the object of securing, as nearly as possible, uniform statutes upon the matter of divorce throughout the nation.

SEC. 3. The three commissioners, above authorized for the purpose of codifying the divorce laws of this Commonwealth, together with the Governor, shall be authorized to act as the delegates of this Commonwealth in the congress above provided for, and shall have authority to employ such clerical assistance as may be required in the work herein authorized. The sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury not otherwise appropriated to defray the expenses of carrying out the purposes of this act.

In response to letters from the Governor of Pennsylvania to the Governors of the respective states, it is expected that a very full representation from nearly all of the states will be present at this Congress. In several cases including the commissioners already in office, who are members of our Conference, have been appointed, while in other cases, including some states in which no act has yet passed authorizing the Governor to appoint commissioners on uniformity of legislation, special commissioners have been appointed. They are all equally welcome at this Conference, and we ask for their help in the consideration of the extremely difficult subject of appropriate uniform legislation throughout the states of the union on marriage and divorce.

The importance of this subject is well attested by the prompt response made by the Governors of the various states and in the high character of the commissioners they have appointed. Editorials and articles upon the subject in newspapers throughout the country attest the interest of the public. Public sentiment is awakened and it is coming to be generally admitted that something must be done to combat the evils of our too lax divorce system.

In my last annual address I spoke of the Torrens System of Registration of Land Title and advocated it, recommending that our committee on the subject be authorized to cause a uniform law for such a system to be drafted.

It is well to know what can be said on both sides, and I therefore call your attention to the report of the special committee on registration of land titles of the Pennsylvania State Bar Association published in the Tenth Annual Report (1904) of that Association at page 121. After expressing doubt as to the constitutionality of the laws on this subject passed in some of our states, with the reasons for such doubts, the committee explains and commends a similar land law in Germany. The report was received and consideration thereof deferred until another session of the Association. I recommend that

our committee on this subject take this very able report into consideration and continue their work, communicating, if they think it advisable, with this committee of the Pennsylvania State Bar Association.

In my last annual address I said that even in so humble a sphere as the war upon mosquitoes we might find a field for usefulness, although it might strike many as a humorous suggestion that there ought to be uniform legislation for the extermination of these pests. But late events certainly take all of the humor out of the suggestion in view of the tragic situation at more than one American port. An outbreak of yellow fever has occurred, due to the spread of the disease through the bite of one particular kind of mosquito, the *Stegomia fasciata*, which, by its bite of a person who has yellow fever, carries it to the next person it bites. At first the old feeling of state rights prompted the state authorities to undertake exclusively the task of preventing the spread of the disease by isolation of all patients. Now, the attempt failing, the whole matter is turned over to the national authorities through whose power alone we can look for success in seeing that the desired isolation is absolute. One kind of mosquito is thus the unconscious agent for increasing the power of the central government. On theoretical grounds the change was opposed; when the actual emergency arose, it became a triumphant argument.

Five more states have adopted the Negotiable Instruments Law, as follows:

Kansas, Laws 1905, ch. 310, approved March 7, 1905, to take effect June 8, 1905.

Wyoming, Laws 1905, ch. 43, to take effect February 15, 1905.

Missouri, Laws 1905, p. 243, approved April 10, 1905, to take effect June 16, 1905.

Michigan, Act 265, P. A. 1905, approved June 16, 1905, to take effect September 10, 1905.

Nebraska, Sess. L., 1905, ch. 83, approved April 1, 1905, to take effect August 1, 1905. In Comp. Laws, 1905, ch. 41.

There are therefore thirty states or territories, including the District of Columbia, in which this law is in force, more than half of the states of the union, and we may confidently look forward to the time when it will become a law in all of them.

Resuming my annual examination of the cases that have arisen under this law, I will give a brief account of the cases in the courts of the states that have adopted it.

Decisions on Negotiable Instruments Law.

Young *vs.* Am. Bk., 89 N. Y. Supp. 915 (July, 1904). An instrument issued by a bank certifying that I has a deposit of $300 in the bank bearing interest at seven per cent. per annum payable annually, due in two years from date "and will be cashed only upon being returned to the bank by the International Money Box Company of New York or their order," is a negotiable instrument. (Clearly this instrument fulfils all the requirements of a negotiable instrument laid down in Laws 1897, ch. 612, s. 20, but strangely enough the act is not referred to.)

Thorpe *vs.* Mindeman, 101 N. W. 417, Wisconsin (Nov., 15, 1904). Under Laws 1899, p. 682, ch. 356, s. 1675-1-2-3 and 4 (Crawf., s. 20), a mortgage note for a specified sum and payable at a certain future date was negotiable, though it provided that on default in interest or failure to comply with any of the conditions of the mortgage, the whole amount of the principal should become due and payable at the option of the mortgagee. (See also the next section.) Under said ch. 356, s. 1676-8 (Crawf., s. 68), the addition of the words "without recourse" to an indorsement of a note does not

impair its negotiable character. See also Loizeaux *vs.* Fremder, 101 N. W. 423, Wisc. (Nov. 15, 1904).

Cornish *vs.* Wolverton, 81 Pac. 4, Montana (June 3, 1905). Under Civ. Code, ss. 3991, 3992, 3997 (Crawf., ss. 20, 21), a note providing that, if not paid when due, both principal and interest shall bear an increased rate of interest is not negotiable. Under Civ. Code, s. 2207, which provides that "several contracts relating to the same matters between the same parties, and made as parts of substantially one transaction, are to be taken together," a note stating that it is secured by a mortgage of the same date, and the mortgage providing that the mortgagor should pay the taxes and insurance, keep the property in repair, commit no waste, etc., and that in default of performance the principal and interest should become due and the mortgage should become subject to foreclosure, it was held that, under said s. 2207, the note and the mortgage were parts of the same contract and must be read together, so that the entire contract contained conditions not certain of fulfilment, rendering the note non-negotiable. Where a note payable to order is assigned without indorsement, its negotiable character is destroyed.

Exchange Bk. *vs.* Ap. L. & L. Co., 128 N. Car. 193 (Apr. 30, 1901). A provision in a promissory note, for attorney's fees in case of suit on note, is invalid under Laws 1890-1, ch. 267. (The note in suit was dated June 15, 1899, and the Negotiable Instruments Law went into effect in North Carolina March 28, 1899 [Laws 1899, ch. 733]. [Crawford, An. N. I. L., s. 21]. This act provides that the sum payable is a sum certain within the meaning of this act, although it is to be paid —— "with costs of collection or an attorney's fee in case payment shall not be made at maturity." But the Negotiable Instruments Law is not mentioned either by counsel or by the court.)

Milton Nat. Bk. *vs.* Beaver, 25 Pa. Superior Ct. 494 (Mch. 8, 1904). Under the act of May 16, 1901, P. L. 194, s. 5, p. 2 (Crawf., s. 24), the negotiable character of an instrument

is not affected by a provision that "authorizes a confession of judgment if the instrument be not paid at maturity." The effect of a provision authorizing confession of judgment before maturity of the instrument is to destroy its negotiability.

Mass. Nat. Bk. *vs.* Snow, 187 Mass. 159 (Jan. 4, 1905). Under R. L., ch. 73, s. 26, 5 (Crawf., s. 27), a negotiable promissory note, indorsed in blank by the payee, is payable to bearer. Under R. L., ch. 73, s. 207 (Crawf., s. 27), if the maker of a negotiable promissory note wrongfully obtains possession of it after it has been indorsed in blank by the payee, he is the bearer. Under R. L., ch. 73, s. 33 (Crawf., s. 35), where the instrument is in the hands of a holder in due course, a valid delivery thereof by all parties prior to him, so as to make them liable to him, is conclusively presumed. Under R. L., ch. 73, ss. 73, 74 (Crawf., ss. 95, 96), if the maker of a negotiable promissory note obtains possession of it after it has been indorsed in blank by the payee and presents it at a bank for discount, the fact that the bearer is the maker does not put the bank upon inquiry nor prevent it from becoming a holder in due course if it discounts the note in good faith without actual knowledge of any infirmity. Under R. L., ch. 73, ss. 18, 212 (Crawf., ss. 20, 7), a holder in due course of a promissory note, payable to bearer, can acquire a good title to the note from one who has stolen it. (The report of this case, 72 N. E. 959, states that the notes in question were dated December 9, 1897. The date is important, as the Negotiable Instruments Law was not in effect in Massachusetts until 1898.)

Moak *vs.* Stevens, 91 N. Y. Supp. 903 (Nov. 1904). Evidence held insufficient to overcome the presumption of a valid delivery of a check presented for payment after death of the maker, of the existence of a sufficient consideration or to show that the maker was subject to the control of the payee of the check, the plaintiff in this action. See Laws 1897, ch. 612, ss. 35, 50.

Ullery *vs.* Brohm, 79 Pac. 180, Colorado (Nov. 14, 1904).

Where a note reciting "I promise to pay" was signed by two persons, each one is a maker, and the note is a joint and several one of each maker. (Although the Negotiable Instruments Law was in force in Colorado before the date of this note, no reference is made to the act. See Crawf., ss. 36 [7] and 110).

Oppenheim *vs.* Reigal Cigar Co., 90 N. Y. Supp. 355 (Nov. 10, 1904). A manufacturing corporation, which otherwise has no power to make an accommodation indorsement, is not given such power or made liable on such an indorsement under Laws 1897, ch. 612, ss. 41 and 55.

Heavey *vs.* Commercial Nat. Bk., 75 Pac. 727 (Utah) (Feb. 8, 1904). Where the drawer of a check was induced through fraud to deliver it to an imposter, believing him to be the person named in the check, and the imposter negotiated the instrument, receiving payment thereon from an innocent third party, the drawer must stand the loss as between the *bona fide* holder and the drawer. (See Crawf., s. 42. Although the Negotiable Instruments Law went into effect in Utah in 1899, and this transaction took place in 1902, no mention is made of the law.)

Bk. of America *vs.* Waydell, 92 N. Y. Supp. 666 (Mch. 10, 1905). Under Laws 1897, ch. 612, s. 51 (an antecedent debt constitutes value), an indebtedness existing in favor of a bank against a forwarder of a draft for collection, does not constitute the bank a holder of the draft for value, in such sense as to entitle the bank to retain the draft as against the true owner, where the bank does not discharge or deal with the indebtedness in any way on the faith of the draft, the draft being not yet due and it not being possible to credit it to the forwarder or to apply it to his indebtedness.

Batterman *vs.* Butcher, 88 N. Y. Supp. 685 (June 17, 1904). In an action on a note between the original parties the defense of want of consideration is open to the parties. The Negotiable Instruments Law (in force in New York) is not referred to. See ss. 54, 55.

Met. Pr. Co. *vs.* Springer, 90 N. Y. Supp. 376 (Nov. 10,

1904). Under Laws 1897, ch. 612, s. 55, the drawer of an accommodation check cannot plead want of consideration against a *bona fide* holder.

Schlesinger *vs.* Kurzrok, 94 N. Y. Supp. 442 (June 20, 1905). Under Laws 1897, ch. 612, ss. 60, 90, 112, 321, 323, 325, where the drawer of a check procured it to be certified before delivery to the payees, and the bank failed before it was presented for payment, the bank was not liable thereon to the drawer, but only to the holder in due course at the time of the failure, and hence the drawer, on receiving the check from the payees, after the failure of the bank, was not entitled to set off the amount thereof against an indebtedness to the bank.

Swenson *vs.* Stoltz, 78 Pac. 999, Washington (Dec. 20, 1904). Under Laws 1899, p. 347, ch. 149, ss. 30, 31 (Crawf., ss. 60, 61), and s. 49 (Crawf., 79), the transfer of a negotiable instrument for value, by delivery without indorsement, vests in the transferee the transferrer's title thereto with the right to have the indorsement of the transferrer, nothwithstanding s. 18 (Crawf., s. 37) when liability is predicated upon the instrument itself.

Milius *vs.* Kauffmann, 93 N. Y. Supp. 669 (May 5, 1905). Under Laws 1897, ch. 612, s. 91, a person who takes a note from a person before maturity, as an agreement to forbear suing on the debt for a few days at least, is a holder for value.

Drinkall *vs.* Movius State Bk., 88 N. W. R. 724, North Dakota (Oct. 26, 1901). Both at common law and under ss. 55, 59, ch. 100, Rev. Code 1899 (Crawf., ss. 91, 99), when defendant bank issued its cashier's check to the plaintiff's order, and the plaintiff indorsed it and delivered it to a gambler in payment for chips used in gambling, and was present when the defendant paid the amount of the check to the gambler, the plaintiff protesting against such payment, the defendant bank is liable to plaintiff for the amount of the check.

Citizens State Bank *vs.* Cowles, 73 N. E. 33, New York (Jan. 31, 1905). Where the holder of a check drawn on

another bank deposited it to his account, and the bank where it was so deposited credited the amount to the depositor's account and the depositor's account remained sufficient to pay the check in case of dishonor, the bank was not a holder of the check in due course of business within the Negotiable Instruments Law, s. 91, so as to exclude defenses which the drawer of the check might have against the payee.

Benedict *vs.* Kress *et al.*, 89 N. Y. Supp. 607 (July 28, 1904). Under Negotiable Instruments Law (Laws 1897, pp. 732, 733, ch. 612), ss. 91, 96, 98, where a holder of a check has no knowledge of defenses that would be good against prior holders, and is an innocent purchaser for value, he is a holder in due course.

Keegan *vs.* Rock, 102 N. W. 805, Iowa (March 9, 1905). Under the Negotiable Instruments Law, 29th General Assembly, ch. 130, s. 52 (Crawf., s. 91), defining a holder in due course, and s. 55 (Crawf., s. 94), defining what is a defective title. *Held*, where, after the execution of a note and mortgage, the proposed mortgagee refused to make the loan, and the agent for the mortgagor, who had endeavored to negotiate the loan, caused an assignment of the note and mortgage to be made to him by the proposed mortgagee without the knowledge or consent of the mortgagor, such agent is not a holder in due course, having acquired title not only without consideration, but by a fraud on the makers of the note. Under s. 59 (Crawf., s. 98), when it is shown that the title of any person who has negotiated an instrument is defective, the burden is on the holder to prove that he or some person under whom he claims acquired the title as a holder in due course. This case affirms what was the law in Iowa before the adoption of the Negotiable Instruments Law.

Brown *vs.* Feldwert, 80 Pac. 414, Oregon (Apr. 10, 1905). Under B. & C. Comp., ss. 4454 and 4459, etc. (Crawf., 91 and 98), the provisions of which were not properly in issue under the pleadings, the defense of failure of consideration,

upon suit against the maker of a negotiable instrument by a transferee for value, is unavailing.

Yakima Valley Bk. *vs.* McAllister, 79 Pac. 1119, Washington (Mch. 23, 1905). Where the maker of a note payable to himself is induced by a fraudulent trick to indorse it without knowledge on his part of having, in fact, indorsed it and without having had any intention to indorse it at the time the indorsement was obtained, he is not liable thereon, even to a *bona fide* holder. (Although the Negotiable Instruments Law was in force in Washington before the date of this note, no reference is made to the act. See Crawf., ss. 94, 95.)

Orr *vs.* S. Aubrey Terra Cotta Co., 94 N. Y. Supp. 524 (June 28, 1905). A third person taking a negotiable instrument given by a corporation to an officer or director of the corporation, knowing he is such an officer or director, is put upon inquiry as to the lawfulness of the issue of the note, and if it is subject to any legal infirmity, he cannot avoid such infirmity by claiming to be a *bona fide* holder without notice. (Laws 1897, ch. 612, s. 95, is cited only in the dissenting opinion of McLean, J.)

Unaka Nat. Bk. *vs.* Butler, 83 S. W. 655, Tennessee (Dec. 19, 1904). Under Acts 1899, p. 150, ch. 94, s. 56 (Crawf., 95), where a check was drawn November 24th and was indorsed in blank and lost, a merchant, who took it before December 1st for value from an unknown customer, whom he supposed to be the payee, without further indorsement or inquiry of identity, was a *bona fide* holder and entitled to payment, although the bank on which the check was drawn had received notice of the loss of the check and had been directed not to pay the check.

Mersick *vs.* Alderman, 60 Atl. 109, Connecticut (Mch. 9, 1905). Under Gen. Stats. Conn. 1902, s. 4228 (Crawf., s. 97), a payee of a negotiable promissory note, who is also the owner of the indebtedness which the note was indorsed to secure, is a lien holder and a holder in due course for value to the extent of the lien, and is entitled to recover to the amount of the

debt due and secured by the note, whether that debt was incurred before or after the maturity of the note.

German Am. Bk. *vs.* Cunningham, 89 N. Y. Supp. 836 (Sept. 27, 1904). Under Laws 1897, ch. 612, s. 98, where the maker of a negotiable promissory note sued on by an indorsee testified that it had been negotiated in violation of an agreement under which it was given, such negotiation constituted a breach of faith against the maker, and required proof, on the part of the holder, before a recovery could be had, that the note was received in the ordinary course of trade, for a valuable consideration and without knowledge of such agreement.

Consolidation Nat. Bank *vs.* Kirkland, 91 N. Y. Supp. 353 (Dec. 2, 1904). Under Laws 1897, ch. 612, s. 98, the burden is on the transferee of a negotiable promissory note from the payee, to show, before it can recover against the maker, that it was a *bona fide* holder for value, where the note is shown to have been fraudulent in its inception.

Corn *vs.* Levy, 89. N. Y. Supp. 658 (July 28, 1904). Under Laws 1897, ch. 612, s. 114, it is not necessary for the complainant in an action on a negotiable promissory note, in order to charge a third person as an indorser before delivery, to allege that the indorsement was made in order to give the maker credit with the payee, or that the party indorsed the note as surety for the maker.

Thorpe *vs.* White, 74 N. E. 592, Massachusetts (June 19, 1905). Under Rev. Law, ch. 73, s. 81 (Crawf., s. 114) a person who writes his name on the back of a negotiable instrument before delivery, not being the payee thereof, is liable as an indorser. Where, after a note was indorsed and delivered by the indorser to the maker, the latter altered it and delivered it to the payee, who took it without notice of the alteration, the indorser was liable to the payee under Rev. Laws, ch. 73, ss. 69 and 141 (Crawf., ss. 91 and 205) defining a holder in due course and the effect of alteration.

Leonard *vs.* Draper, 73 N. E. 644, Massachusetts (Mch. 3,

1905). Under Rev. Laws, ch. 73, s. 81 (Crawf., s. 114) providing that where a person not otherwise a party to an instrument places thereon his signature in blank before delivery, he is liable as an indorser to the payee and to all subsequent parties if the instrument is payable to the order of a third person, *semble*, that when the defendant indorsed a note payable to the order of a third person, before such payee's indorsement, he became liable to the first holder of the note after it took effect and to all subsequent parties. If the defendants indorsed before the payee did, defenses as to the legality or consideration are open under said section. See Dunscomb *vs.* Bunker, 2 Met. 8. Under Rev. Laws, ch. 73, ss. 83, 84 (Crawf., s. 116) declaring that every indorser indorsing without qualification warrants to all subsequent holders, in due course, the genuineness of the instrument, his own good title and the capacity of all prior parties to the contract, etc., an indorser, after the payee on a note executed by a corporation by its treasurer, cannot defend on the ground that the treasurer had no authority to execute the note, affirming prior law in Massachusetts. (Kenworthy *vs.* Sawyer, 125 Mass. 28.)

German Am. Bk. *vs.* Mills, 91 N. Y. Supp. 142 (Dec. 16, 1904). What is a reasonable time for presentment, so as to bind an indorser of a negotiable promissory note payable on demand, under Laws 1897, ch. 612, s. 131, is a question to be determined by the circumstances of the particular case.

Nelson *vs.* Grondahl, 100 N. W. 1093, North Dakota (Sept. 10, 1904). Where a note specifies on its face the place where it is payable and is presented there for payment, no personal demand on the maker is necessary under Civ. Code, ss. 72, 73 (Crawf., ss. 132, 133).

Aebi *vs.* Bank of Evansville, 102 N. W. 329, Wisconsin (Jan. 31, 1905). Under P. L. 1899, ch. 356, s. 1678-11 and s. 1684-2 (Crawf., ss. 141 and 322), the indorsee of a bank check must present it for payment within a reasonable time in order to render the indorser liable thereon. Where the payee of a check on another bank indorsed and deposited the

check in his own bank, received credit for the amount of the check as cash in his general account to be checked against with nothing to qualify the effect, the bank where the check is so deposited becomes its owner, and not a mere agent to collect it for the payee. Where the drawee of a check has been discharged from liability on his indorsement by delay of the indorsee in presentment until the check is lost, the drawee does not waive the indorsee's delay and renew his obligation as indorser by procuring and indorsing a duplicate check at the request of such other bank.

Traders Nat. Bk. *vs.* Jones, 93 N. Y. Supp. 768 (May 5, 1905). Under Laws 1897, ch. 612, ss. 161, 162, where a notary gave due notice of protest of a firm note, to the firm, who were makers and, at least in form, subsequent indorsers, enclosing a notice to defendant who was a member of the firm and accommodation indorser of the note, which notice was mailed to the defendant immediately, although the makers were not authorized, under s. 161, to give a valid notice of protest to the defendant, they were authorized to forward it to him as agents of the holder of the note, under s. 162.

Am. Ex. Nat. Bk. *vs.* Am. Hotel Victoria Co., 92 N. Y. Supp. 1006 (Apr. 7, 1905). Under Laws 1896, ch. 612, ss. 167, 168, service of notice of dishonor to charge an indorser, a corporation conducting a hotel, by leaving such notice at the cashier's window, is not enough; it not appearing that personal service was made upon any officer of the defendant corporation or that notice was left with such an officer, or even where it might be reasonably inferred that an officer or agent of the corporation would receive it.

Solomon *vs.* Cohen, 94 N. Y. Supp. 502 (June 22, 1905). Under Laws 1897, ch. 612, s. 174, notice to an indorser that the note had not been paid, given two or three days after it was due, was too late.

Leask *vs.* Dew, 92 N. Y. Supp. 891 (Mch. 24, 1905). Under Laws 1897, ch. 612, s. 203, where the payee of a note retained it, and after his death it was found among his papers

in an envelope with a writing signed by the payee addressed to his executors stating that he wished the enclosed note to be canceled in case of his death, "and if the law does not allow it, I wish you to notify my heirs that it is my wish and orders." The writing was not a valid renunciation and the note remained a subsisting obligation.

Moskowitz *vs.* Deutsch, 92 N. Y. Supp. 721 (Mch. 23, 1905). Under Laws 1897, ch. 612, s. 205, where the payee of defendant's check, representing it was lost, received and cashed one in place of it and then changed the date of the first check so as to make it dated ten days later than when made, the plaintiff, who became its owner in due course, was held to be entitled to recover on it.

Birmingham Trust & Svg. Co. *vs.* Whitney, 88 N. Y. Supp. 578 (June 10, 1904). It is not a material alteration of a draft to add a word of description when it is intended by the parties that the paper shall go to the indorsee in the exact capacity or relationship indicated by the title affixed. The Negotiable Instruments Law (in force in New York) is not mentioned. See ss. 205; 206.

Amsinck vs. Rogers, 93 N. Y. Supp. 87 (Apr. 14, 1905). Under Laws 1897, ch. 612, ss. 210, 260, 321, where a negotiable instrument was drawn by the seller of iron on the buyer, who resided in a foreign country, which, with the bill of lading attached, was indorsed for discount, it was a foreign bill of exchange and not a check. When a foreign bill of exchange was presented for payment, and payment was formally demanded and refused, but the bill was not duly protested for non-payment, the drawer was discharged from liability to the indorsee.

Wadhams *vs.* Portland V. & Y. R. Co., 79 Pac. 597, Washington (Feb. 17, 1905). Under Laws 1899, ch. 149, s. 127 (Crawf., s. 211) and s. 132 (Crawf., s. 220), a complaint in an action on an order given by a railroad contractor on defendant railroad company, alleging that defendant received and accepted the order, and promised and agreed to retain out

of moneys due or to become due to the contractor, the amount of the order, etc., but failing to allege defendant's written acceptance thereof, did not state a cause of action against the defendant.

Symonds *vs.* Riley, 74 N. E. 926, Massachusetts (June 22, 1905). A post-dated check is a negotiable instrument, and is subject to the laws relating to negotiable instruments. (Crawf., ss. 321, 322.) Where post-dated checks were deposited in a bank, which took them in good faith, paying full value with no notice of any equities between the drawer and the one to whose credit they were deposited, such equities were no defense in an action by the bank against the drawer. The indorsee of a check after maturity, with notice of defenses, is protected where he received it from a party who received it before maturity and without knowledge of any defect.

State Bk. *vs.* Weiss, 91 N. Y. Supp. 276 (Dec. 23, 1904). Checks drawn on plaintiff's bank were paid by allowance of credit at clearing house. Upon discovery that the drawer had no deposit, no demand was made on the indorser of the checks until action was brought against him six days later. *Held*, under Laws 1897, ch. 612, ss. 321, 325, plaintiff could not recover of the indorser.

St. Regis Paper Co. *vs.* Tonawanda B. & P. Co., 94 N. Y. Supp. 946 (July 6, 1905). Under Laws 1897, ch. 612, ss. 323, 324, when a creditor received a check from his debtor and procured its certification by the bank on which it was drawn, it was held to be a payment to the amount of the check.

Pease & Dwyer Co. *vs.* State Nat. Bk., 88 S. W. 172, Tennessee (June 20, 1905). Under Acts 1899, ch. 194, s. 189 (Crawf., s. 325) the drawer of an ordinary check may, before it is accepted, revoke it and forbid its payment, in which case any subsequent payment made by the bank after receipt of such notice not to pay it, is made at its peril.

REPORT

OF THE

EXECUTIVE COMMITTEE.

To the President and Commissioners attending the Fifteenth Annual Conference of Commissioners on Uniform State Laws:

Your Executive Committee would respectfully report:

At the Fourteenth Annual Conference of Commissioners, held at St. Louis, Missouri, September 22, 23 and 24, 1904, it was made the duty of the Executive Committee "to communicate with the governors and legislatures of the several states, with the view of securing the appointment of commissioners from states not already represented, the attendance of commissioners already appointed by the several states, and the necessary appropriation from each state which has appointed commissioners for the payment of the expenses required to carry on the work of the Conference."

In compliance with this direction, your committee on July 25, 1905, addressed to the governors of the separate commonwealths of the United States, a circular letter calling attention to the assembling of this Conference at the New Matthewson Hotel, Narragansett Pier, Rhode Island, beginning August 18, 1905, and continuing thereafter until the meeting of the American Bar Association at the same place on Wednesday, August 23, 1905, if the business before the Conference should require such continuance.

Your committee further respectfully requested each governor to use his influence to secure the attendance of the commissioners from his state at this National Conference; and if there were any vacancies among the commissioners by the expiration of the term of office for which they were originally appointed or by reason of their non-acceptance of the

appointment, your committee asked that steps should be taken to fill such vacancies, stating that it was the desire of the officers and of the members of the Executive Committee of the National Conference to secure a very full attendance of the commissioners from the various states at the approaching Conference.

To this circular your committee has received replies as follows:

From the Hon. Jesse T. McDonald, Governor of the State of Colorado, giving the names of the three commissioners from that state and stating he would urge upon them the necessity of attending the Conference.

From the Hon. M. A. Brown, Governor of the State of Florida, that he would endeavor to have the commissioners from that state attend the Conference.

From the Hon. John H. Mickey, Governor of Nebraska, that he had appointed Ralph W. Breckenridge, of Omaha; Judge Roscoe Pound, of Lincoln, and John L. Webster, of Omaha, as the three commissioners to represent the State of Nebraska at this Conference. He further stated he had reason to believe that these gentlemen would all be present, and requested that they be sent such data as we might have and think necessary for them to have relative to the Conference.

From the Hon. A. J. Montague, Governor of the Commonwealth of Virginia, that he would take pleasure in bringing the meeting of the Conference to the attention of the members of the Board of Commissioners from his state, and giving the names of the commissioners as we have them upon the roll of our Conference.

From the Hon. George C. Pardee, Governor of the State of California, that steps would be taken to secure the attendance at the Conference of prominent attorneys of that state.

From the Hon. Samuel W. Pennypacker, Governor of the Commonwealth of Pennsylvania, that he had on the 1st day of August, 1905, reappointed C. La Rue Munson, of Williams-

port; Walter George Smith and William H. Staake, of Philadelphia, as commissioners for the promotion of uniformity of legislation in the United States for an additional term of four years with the same powers, duties, privileges and obligations contained in the Act of May 23, 1901—all the provisions of which act were extended for the further period of four years.

From the Hon. John A. Johnson, Governor of the State of Minnesota, that he had appointed as commissioners to this Conference:

Col. C. W. Stanton, of International Falls; Rome G. Brown, of Minneapolis; C. A. Fosnes, of Montevideo; Frederick V. Brown, of Minneapolis; E. C. Stringer, of St. Paul; Charles W. Farnham, of St. Paul; J. L. Washburn, of Duluth; Wilson Borst, of Windom; Julius Coller, of Shakopee, and F. A. Mathwig, of Fairmont.

From the private secretary of the Hon. Bryant B. Brooks, Governor of Wyoming, that owing to the Governor's absence from the office until August 25th, instant, he feared they could not be represented at this Conference.

Your committee has learned that the Hon. Albert E. Mead, Governor of Washington, by the authority of an act of the legislature of the state at its recent session, has appointed Charles E. Shepard, of Seattle; Alfred Battle, of Seattle, and Ira P. Englehart, of North Yakima, as commissioners from that state to this Conference.

Your committee has learned that the Commonwealth of Pennsylvania has approved of an act appropriating the sum of $2000 to the commissioners representing Pennsylvania for the two fiscal years beginning June 1, 1905, and authorizing the commissioners to pay out of this appropriation, as part of their expenses, any sum that may be necessary in their judgment to meet a proportion of the expenses incurred by this Conference of Commissioners of which they are members in connection with any meeting at which they or any of them are in attendance. Your committee has not been informed of any other legislation of this character.

Another duty of the committee was the preparation of suitable by-laws for the Conference and for the Executive Committee which should be reported at this annual Conference. In obedience to this direction, your committee have prepared a draft of a Constitution and by-laws, which is herewith submitted as a part of this report.

By a vote of the last Conference, it was made the duty of the Executive Committee to memorialize the Congress of the United States to pass an act to provide for an appointment from the District of Columbia of commissioners on uniformity of legislation. Your committee prepared such a memorial, a copy of which is submitted as a part of this report.

Your committee made an earnest effort to secure favorable action upon this memorial, which was introduced by Congressman A. B. Capron, of Rhode Island, and received the cordial support of Congressmen Richard Wayne Parker and Charles E. Littlefield of the House Judiciary Committee; and of Congressman Reuben O. Moon, of Pennsylvania. Unfortunately there was insufficient time for proper action by the Judiciary Committee; so that your committee has concluded to make a united and vigorous effort next December to secure favorable action upon your memorial.

Your committee addressed a printed circular dated July 25, 1905, to each commissioner upon the roll of this Conference requesting that the Chairman of the committee should be advised "as to any matters relative to uniform laws which may have received legislative attention or judicial decision" in his state since the last meeting of the National Conference which had not been theretofore reported to the Conference. In reply to this request Commissioner John D. Milliken, of Kansas, reported the adoption of the Negotiable Instruments Law at the last session of the legislature of that state. In presenting the merits of the Negotiable Instruments Law to a Joint Committee of the Senate and House of Representatives, Commissioner Milliken incidentally called attention to the various other laws which were in contemplation by our Confer-

ence. He gives the credit for the passage of the Negotiable Instruments Law to the joint action of the Bankers' Association and the Commissioners on Uniformity of Laws from that state.

Commissioner Charles F. Libby, of Maine, reported that two bills recommended by the Conference came before the legislature of Maine at the commencement of the year. The Negotiable Instruments Act had been favorably reported by the Judiciary Committee after a public hearing in which he participated. The act passed the House, but was defeated in the Senate. The Insurance Bill recommended by this Conference came from the Insurance Committee on a divided report after a public hearing in which he also participated. This bill was passed by the Senate and defeated in the House.

Commissioner Walter S. Logan, of New York, reported that Governor Higgins, of New York, had referred the communication of the Governor of the Commonwealth of Pennsylvania in reference to a proposed congress of delegates from the various states to meet in Washington to consider the codification and unification of the divorce laws of the United States, to the Commissioners of New York State for the Promotion of Uniformity of Legislation in the United States; that the commissioners had accepted the appointment and would be very glad to co-operate with the commissioners from Pennsylvania on these subjects.

Commissioner Wesley W. Hyde, of Michigan, reported that at the last session of the legislature of that state the Negotiable Instruments Law became a law in that state without any change in it so far as he knew. He had been able to assist in getting the act passed.

Commissioner Robert W. Williams, of Florida, replied referring to the delay in the publication of the Report of the last Annual Conference and of the fact that he had not been advised of his assignment as a member of any committee or of any matter having been referred to a committee of which he was a member. He further reported there had been no

matters relating to uniform laws which had occurred in the legislative or judicial department of the State of Florida since the last meeting of the Conference.

Commissioner William A. Ketcham, of Indiana, deplores that his state did not contribute to the expenses of the commission, and stated that he felt he ought not to participate in the deliberations of this Conference for that reason. He advises your committee that there was no legislation by the General Assembly of Indiana at its last session along the lines of the Conference; that Messrs. Pickens, Reinhart and he had sought fruitlessly to procure the adoption of the Negotiable Instruments Law. Your committee trust that Commissioner Ketcham may reconsider his decision not to participate in the sessions of the Conference for the reason given by him.

Commissioner Robert S. Taylor, of Indiana, stated his inability to give information as requested, but that he would endeavor to have it furnished by some one else; that his name had been kept on the list of commissioners in spite of his repeated protests to the governor; that for several years past he had been given as much work in the Patent Section and on the Committee on Patent, Trade-Mark and Copyright Law of the American Bar Association as he could find time and strength to do; and that he would make an earnest effort to find some person to take his place.

Commissioner John C. Richberg, of Illinois, reports the only action which the General Assembly of Illinois took relating to uniform laws was one amending the divorce code, by providing that where a divorce has been obtained neither party shall marry again within one year from the time of granting the decree; that when the cause for such divorce is adultery the guilty party shall not marry for a term of two years and that every person marrying contrary to these provisions should be punished by imprisonment in the penitentiary for not less than one year nor more than three years, and such marriage should be held absolutely void. He further reported that the statute on negotiable instruments had been amended

in reference to legal holidays which, for all purposes regarding the presenting for payment or acceptance, the maturity and protesting and giving notice of the dishonor of bills of exchange, bank checks and promissory notes and other negotiable or commercial paper or instruments, should be treated and considered as the first day of the week, commonly called Sunday; that when such holidays fell upon Sunday the Monday next following should be considered and held such holiday; and that when two or more of these days came together or immediately succeeding each other then such instruments, paper or indebtedness should be deemed as due or having matured on the day following the last of such days. Those mentioned as holidays were: January 1st, February 22d, May 30th, July 4th, December 25th, first Monday in September, February 12th and any day appointed by the Governor or the President as a day of fast or thanksgiving; and that in cities of 200,000 inhabitants or more, Saturdays from twelve o'clock noon to twelve o'clock midnight were declared to be half-holidays.

Commissioner Walter George Smith, of Pennsylvania, reported the Appropriation Act to which reference has already been made in this report, and that the commissioners from Pennsylvania had been appointed by Governor Pennypacker to represent that state in any Conference that may be held to examine the law of the various states on the subject of divorce with a view to the adoption of a draft for a proposed general law.

Commissioner C. La Rue Munson, of Pennsylvania, writes from Aix-les-Bains, France, regretting that his absence in that country would prevent his attendance at this Conference, but promising his attendance at the Conference in 1906.

Commissioner William E. Cushing, of Ohio, reported no legislation in that state during the present year, it being an off year. He knew of nothing in the way of judicial decisions touching our subjects during the year. He also complains that he knew nothing about the committee assignments till

the report of the American Bar Association reached him during the last week of July. He then learned that he was Chairman of the Committee on Conveyances which last year was relieved from further consideration of the subjects of depositions and proof of statutes of other states; but of course it was now too late for his committee to do any work before the Conference would meet. He feared that the illness of his partner might compel him to miss attendance at the Conference this year.

Commissioner Amasa M. Eaton, of Rhode Island, is *ex-officio* a member of the committee and has been in continuous service since the last Conference, at St. Louis. The report of his activities will appear in his annual address. He has been in communication with the Chairman of the Executive Committee and in correspondence with the commissioners from the various states. By his voice and his pen he has done everything in his power to further the work which this Conference has in hand and merits the hearty commendation of the general public, and undoubtedly would have formally received such commendation from this Conference had not such recognition of the services of any officer been prohibited by the law and practice of the Conference.

Commissioner W. O. Hart, of Louisiana, referred to the very full report in print made by the commissioners from that state to the Conference of 1904, and reported that there had been no legislative session this year and there had been no decisions of the Supreme Court on matters connected with the work of the commission.

Commissioner L. G. Kinne, of Iowa, reported that two years ago he resigned his position as a member of the Commissioners of Uniform Laws for that state. He reported, however, there had been no session of the legislature since the last Conference, in 1904.

The absence of Commissioner President Woodrow Wilson, of Princeton University, was reported to your committee as a reason for delay in reply to its communication.

Commissioners Henry E. Young, of South Carolina; J. R. Thornton, of Louisiana; L. B. French, of South Dakota, and W. S. Pattee, of Minnesota, advised your committee that there had been no legislation nor any judicial decision in their respective states on subjects receiving the attention of the Conference.

Your committee received from Mrs. Maido Wade Dale, widow of our lamented fellow-commissioner Richard C. Dale, of Pennsylvania, a letter thanking the National Conference of Commissioners for the Promotion of Uniformity of Legislation in the United States for the minute which they adopted on September 22, 1904, in honor of Mr. Dale's memory, and recording her grateful acknowledgment for the expression of our appreciation of Mr. Dale's character and abilities. She further expressed her sincere thanks for the sympathy of the Conference.

Your committee formulated the announcement of the meeting of this Conference of Commissioners on Uniform State Laws in a circular dated July 25, 1905, a copy of which is attached to this report. These circulars were mailed to each commissioner whose name appeared upon the printed roll of the Conference as well as to the commissioners whose names were received by the Executive Committee since the Conference of 1904. A copy of this circular was also sent to every member of the Committee on Uniform State Laws of the American Bar Association.

During the year your committee has approved of the continuance of the employment of an expert stenographer to report the proceedings of the Conference and of the printing of the first draft of the Warehouse Receipt Act, which was reported to be ready for submission on behalf of Professor Williston and Mr. Mohun. Your committee recommends that the cost of printing this bill should be paid out of the general fund of the Conference.

Your committee recognizes the aroused public sentiment signalized by the invitation of the Hon. Samuel W. Penny-

packer, Governor of the Commonwealth of Pennsylvania, to the governors of the various states of the union, concerning the proposed assembling of a congress upon the subject of a general divorce law. The circular conveying said invitation requested each governor to co-operate in the assembling of a congress of delegates from such states as should take favorable action upon the suggestion; the said congress to meet at Washington, in the District of Columbia, at such time in the near future as should be agreeable for the purpose of examining, considering and discussing the laws and decisions of the several states upon the subject of divorce, with a view to the adoption of a draft for a proposed general law, which should be reported to the governors of the states for submission to the legislatures thereof, with the object of securing, as nearly as may be possible, uniform statutes upon the matter of divorce throughout the nation.

At the time of the writing of this report, your committee is informed that responses have been received from some twenty-eight of the governors of the various states promising such co-operation and the attendance of delegates at such a congress. It is but just to state that in the communication addressed by Governor Pennypacker he called attention to the fact that the three commissioners appointed to represent Pennsylvania in such proposed congress were, by the terms of a law passed at another session of the legislature which by re-enactment was still in force, previously appointed to represent Pennsylvania in the National Conference of Commissioners from the various states for the promotion of uniformity of legislation in the United States, and that one of the subjects which this National Conference of Commissioners was authorized to consider was the subject of divorce. He therefore suggested that if no congress should meet in Washington, as suggested in the act, a copy of which he enclosed, these same commissioners, by virtue of their appointment under the act providing for their meeting with this National Conference on Uniformity of Legislation, were authorized to represent the

State of Pennsylvania in that conference on the subject of divorce as well as upon other subjects within its purview. He further called the attention of each governor to the approaching session of the National Conference of Commissioners to be held at Narragansett Pier, Rhode Island, in the month of August a few days before the meeting of the American Bar Association.

The response to the invitation of Governer Pennypacker upon the part of the newspaper press of the country has revived a general interest on the subject of uniform laws for marriage and divorce. Leading journals have interviewed Governor Pennypacker, and the editorial columns and news pages of newspapers throughout the entire land have contained references to the proposed conference; have approved of its objects and commended the effort to secure by the legislative action of each state something at least approaching uniformity on the important subjects of marriage and divorce.

Your committee in conference with the President recommended that the sessions of this Conference should begin on Friday, August 18, 1905, so as to give the commissioners ample time for the work of the Conference before the meeting of the American Bar Association on Wednesday, August 23, 1905.

It is the earnest desire of your committee that at an early day every state and territory in the United States shall be represented by commissioners at this Conference. If such a result is attained, many of the obstacles in the way of the cause of uniform legislation will be removed and the conflict of state laws which exists as a barrier to the free business intercourse which should exist among states whose business interests are identical in many respects will cease.

At the last Conference it was ordered that the Committee on Insurance, Commissioner Charles F. Libby, of Maine, Chairman, should report at this Conference if any action had been taken by the various states of the union as to the act relating to insurance recommended by the Conference.

The Committee on Marriage and Divorce, Commissioner John C. Richberg, of Illinois, Chairman, was directed to report on so much of the President's annual address as referred to the subjects of marriage and divorce.

The Committee on Commercial Law, Commissioner Francis B. James, of Ohio, Chairman, was directed to report the proposed Uniform Code on Warehouse Receipts, together with any criticisms of the code received and amendments suggested.

The Committee on Uniform Incorporation Law was requested to continue its work in the line of unification and to report further on the subject at this Conference.

The Special Committee on Torrens System of Registration of Title to Land was requested to report on that system and other systems of land registration at this Conference.

Trusting that the labors of your committee during the past year in the interests of the objects for which this Conference of Commissioners annually assembles may meet with the cordial and hearty support of each commissioner, and that there may be a revival and renewal of interest in this work, your committee most respectfully submits this report.

WILLIAM H. STAAKE,
Chairman.

THE MEMORIAL OF THE CONFERENCE OF COMMISSIONERS ON UNIFORMITY OF LEGISLATION, ASKING FOR THE PASSAGE OF AN ACT BY THE CONGRESS OF THE UNITED STATES, TO PROVIDE FOR THE APPOINTMENT FROM THE DISTRICT OF COLUMBIA, OF COMMISSIONERS ON UNIFORMITY OF LEGISLATION.

The American Bar Association was formed in 1878. The first object as stated in the call for the meeting of the eminent members of the Bar, sponsors for this important undertaking, was "to assimilate the laws of the different states." The first

article of the Constitution as then framed and adopted, and as it still stands, is as follows:

"Its object shall be to advance the science of jurisprudence, promote the administration of justice and uniformity of legislation throughout the union, uphold the honor of the profession of the law, and encourage cordial intercourse among the members of the American Bar."

At the annual meeting of the American Bar Association in 1889, it was resolved:

"That the President of this Association appoint a committee, consisting of one from each state, who shall meet in a convention at a time and place to be fixed by the President, and compare and consider the laws of the different states relating to these subjects, and prepare and report to the Association such recommendations and measures as will bring about the desired result."

The President appointed the committee, it has been added to from year to year, and now consists of one member from each state, territory and district of the union having membership in the American Bar Association.

At the annual meeting of the American Bar Association in 1903, a change was made in the Constitution, and this committee was made one of the standing committees of the Association.

In 1890 an act was passed by the legislature of New York authorizing the Governor to appoint three Commissioners for the Promotion of Uniformity of Legislation in the United States:

"To examine the subjects of marriage and divorce, insolvency, the form of notarial certificates and other subjects; to ascertain the best means to effect an assimilation and uniformity in the laws of the states, and especially to consider whether it would be wise and practicable for the State of New York to invite the other states of the union to send representatives to a convention to draft uniform laws to be submitted to the approval and adoption of the several states, and to devise and recommend such other course of action as shall best accomplish the purpose of this act."

The Committee on Uniform Laws of the American Bar Association thereupon recommended the passage by each state, and by the Congress of the United States for the District of Columbia, of an act similiar to the one above suggested. This committee further recommendèd that the Secretary be instructed to cause this report and the accompanying resolutions to be printed, and that copies be sent to the members of the General Council of the American Bar Association, to the members of its Committee on Uniform Laws in each of the states, territories and the District of Columbia, with the request that they unite in preparing, presenting and securing the passage of a similar act in their respective jurisdictions. These resolutions were adopted and the course suggested was followed.

As the result thereof, Commissions on Uniformity of Legislation have been appointed in thirty-five states and territories of the United States, and they have met in Annual Conference for the last fourteen years. These Conferences are held the same week as the meetings of the American Bar Association and at the same place.

The Negotiable Instruments Act, now adopted in twenty-five states and territories, is the work of this Conference. It was adopted by the Congress of the United States, for the District of Columbia, January 12, 1899. The Conference has now under consideration a Uniform Sales Act, drafted for it by Professor Williston, of the Law School of Harvard University. Next year it will take up for consideration a Uniform Act on the Law of Partnership, now being drafted for the Conference by Professor Ames, Dean of Harvard Law School. This winter the American Warehousemen's Association has placed fifteen hundred dollars in our hands, to pay for drafting a Uniform Act relating to Warehousemen's Receipts, etc. This act is now being drafted for us by Professor Williston, of the Harvard Law School, and Barry Mohun, Esq., of the Ohio Bar, author of a text book on the subject. This act will also be taken into consideration next summer by the Conference.

At the Conference of Commissioners on Uniformity of Legislation held in St. Louis in September last, it was resolved to memoralize the Congress of the United States for the enactment of a law under which the President of the United States shall appoint Commissioners on Uniformity of Legislation on behalf of the District of Columbia, to join our Conference and to act with us in drafting and recommending the enactment of laws to bring about uniformity in legislation in the many branches of the law in which such uniformity is desirable.

On behalf of this Conference of Commissioners on Uniformity of Legislation, we therefore pray your honorable body to enact the following law:

AN ACT TO ESTABLISH A BOARD OF COMMISSIONERS FOR THE PROMOTION OF UNIFORMITY OF LEGISLATION IN THE UNITED STATES.

It is enacted by the General Assembly as follows:

SECTION 1. Within thirty days after the passage of this act the Governor shall appoint three suitable persons, and they and their successors are thereby constituted "A Board of Commissioners for the Promotion of Uniformity of Legislation in the United States." Any vacancy in said Board by resignation, death or however otherwise arising shall be filled by the appointment by the Governor of a suitable person.

SEC. 2. It shall be the duty of said Board to examine the subjects of marriage and divorce, insolvency, the descent and distribution of property, the execution and probate of wills and other subjects upon which uniformity of legislation in the various states and territories of the union is desirable, but which are outside the jurisdiction of the Congress of the United States; to confer upon these matters with the Commissioners appointed by other states and territories for the same purpose; to consider and draft uniform laws to be submitted for approval and adopted by the several states, and

generally to devise and recommend such other or further course of action as shall accomplish the purposes of this act.

SEC. 3. The said Board of Commissioners shall keep a record of all its transactions, and shall, at the session of the legislature in each year, and may, at any other time, make a report of its doings and of its recommendations to the general assembly.

SEC. 4. No member of said Board shall receive any compensation for his services, but each member shall be repaid from the state treasury the amount of his actual traveling and other necessary expenses incurred in the discharge of his official duty after the account thereof has been audited by said Board and by the state auditor, and said Board shall keep a full account of its expenditures and shall report it in each annual report.

SEC. 5. This act shall take effect upon its passage.

REPORT

OF THE

COMMITTEE ON PURITY OF ARTICLES OF COMMERCE.

To the President and Members of the Conference of Commissioners on Uniform State Laws:

Your Committee on Purity of Articles of Commerce would respectfully report:

At the Fourteenth Annual Conference of the Commissioners, held at St. Louis, Missouri, September 22, 23 and 24, 1904, your committee, in view of the then status of the legislation before the national legislature, and believing that the present attention of the Conference should be given to the "perfecting of the Sales Code" as announced by President Eaton in his circular notice of August 5, 1904, repeated its recommendation to the previous Conference, viz.: "That action by this Conference of Commissioners should be delayed until its convention in the year 1905."

While in the individual commonwealths of the United States increased attention has been paid to the enforcing of dairy and food laws, and the executive officers of the departments of state government having such duties in charge have been unusually active in conducting prosecutions for the violations of such laws, your committee regrets that it is again compelled to report that no legislative action has been taken by the national legislature relative to the purity of articles of commerce, with the exception of "the Imported Food Law relative to the inspection of imported food, enforced by the Bureau of Chemistry of the United States Department of Agriculture and re-enacted as a part of the Appropriation Law," as your committee is advised by W. D. Bigelow, the Acting Chief of the Bureau of Chemistry, of the United States Department of Agriculture, in the absence of Dr. H.

W. Wiley, whose admirable address at the last Conference at St. Louis will be pleasantly remembered by the members of this Conference.

Your committee has been in communication with officials who are deeply interested in the enforcement of pure food legislation. It is to be regretted that it seems almost absolutely impossible to agree upon a series of standards for food products and make such standards a part of the law of the land. In the judgment of your committee, nothing will tend to promote the adoption of common standards in all of the states more than the enactment of a national pure food law. Your committee learns with considerable satisfaction that a concerted effort is being made by the National Pure Food Association, the Association of Manufacturers and Distributors of Food Products and by kindred associations to draft a law, which will be offered at the meeting of the next Congress of the United States of America, for approval and adoption, and which has been promised the support of influential members of the Senate and the House of Representatives.

The old question of responsibility is still a vexed one. The retailer desires the protection of a guaranty from the manufacturer; while the manufacturer would leave the responsibility for the violation of the law with the retailer who actually dispenses and distributes the product. When you critically examine the laws of the various states, you become confused with their variations. The methods of the enforcement of the laws are as varied as the laws. Some states have special dairy and food commissioners; others place the responsibility for the enforcement of their laws on the officers of a particular department; while in others such duties are performed by inspectors of the various dairy and food products offered for sale to the general public.

Some persons who are interested in the subject contend that specific food standards should not be made a part of the law. They aver that processes of manufacture are continually changing, new discoveries being made in physiology and food

chemistry, so that a standard of purity unattainable by manufacturers today may be perfectly practicable next year. If the standards are in the law, it is a tedious process to change them; if in a regulation of food commissioners, the code is flexible.

In the report of your committee for the year 1903, your committee referred to the differences in the national food bills then before Congress. Your committee is constrained to believe that a wide difference of opinion still exists among those interested in the adoption of a national pure food law, as to the provisions which should enter into and become a part of such law.

Your committee regrets that in the report of the Commissioners on Uniform State Laws, as contained on pages 636 to 650 of the Report of the American Bar Association, the name of the eminent Chief Chemist of the Bureau of Agriculture should be printed as "R. W. Wiley" instead of "H. W. Wiley."

In the Commonwealth of Pennsylvania the Dairy and Food Division of the Department of Agriculture, under the very able and energetic control of the Dairy and Food Commissioner, B. H. Warren, M. D., has been confronted with a serious difficulty, by the decision of the Supreme Court of the commonwealth, in the famous Kebort liquor case, to the effect that the Dairy and Food Commissioner had no right to make arrests for selling adulterated liquors, on the ground that the Pure Food Law of the state did not include nor apply to liquors.

The reason assigned by the court for this far-reaching decision, briefly stated, was that the title of the Act of Assembly referred solely to "food" and not to "drink."

Since that decision was handed down the attorney-general of the commonwealth has advised the Dairy and Food Commissioner to the effect "that the law punishing adulterations of 'drugs' did not apply to wines, whisky, brandy, liquors, etc., and that neither the State Pharmaceutical Board nor the Department of Health could prosecute for such adulterations."

The Dairy and Food Commissioner reports that even when intoxicating liquors were under the surveillance of the commissioner poisonous adulterations existed; but since their release from the supervision, which had been given by the Supreme Court's decision, the harmful adulterations were multiplying.

It is alarming to contemplate that "wood alcohol, causing nerve atrophy, convulsions, impaired vision, blindness and even death; salicylic acid, causing intestinal derangements, dyspepsia and kidney diseases; coal tar dyes, that are active poisons, and that cause diseases of the digestive tract; sulphites, that have the same effect; red pepper and other powerful irritants are some of the adulterations which lurk in many thousands of bottles and kegs of whisky, wine, beer and other intoxicants that undoubtedly will be placed on sale within the next year," according to the official circular issued by Dr. Warren. Your committee might well enlarge this report by further references to the very frequent comments of the public press in connection with matters affecting the pure food crusade.

Your committee, while repeating its recommendation of last year "that the preparation of a statute regulating purity of foods, as an example to be adopted by all of the states of the union, so as to have a uniform pure food law might well engage the attention of the Conference" in view of the fact that the national legislature has still failed to pass a pure food law regulating interstate commerce, and in further view of the information received by your committee that organizations of manufacturers and merchants, assisted by those who have for years made the subject a special study, are now in conference, with a view of perfecting an Act of Congress to be offered at the next meeting of the national legislature, most reluctantly again repeats its recommendation to the Conference of 1904, viz.: "That action by this Conference of Commissioners shall be delayed until its convention in the year 1906."

Your committee earnestly trusts that the united wisdom of those now engaged in this work may result in the production of an Act of Congress which will not only receive the approval of a majority of the members, but will, by the reasonableness of its provisions, receive the hearty support of all those who are interested in the protection of the consumers against the adulteration, misbranding and imitation of foods, beverages, candies, drugs and condiments in the states and territories of the United States.

Respectfully submitted,

WILLIAM H. STAAKE,
Chairman.

REPORT

OF THE

COMMITTEE ON A UNIFORM INCORPORATION LAW.

To the Conference of Commissioners on Uniform State Laws:

The report of your committee last year occupies pages 684 to 689 of the Reports of the American Bar Association for 1904. A paper by Mr. Horace L. Wilgus, on "A Federal Incorporation Law," occupies pages 694 to 753 of the same Reports. The discussion upon the report is contained in pages 613, 616, 618, 622–634. No other subject occupies so much space in the Reports of last year's proceedings, and its importance in the minds of the Conference may perhaps be measured by the space devoted to it. It is equally important in the public mind. There are few questions before the Conference as to which the existing evils—as well as the difficulties in the way of a remedy—are so generally recognized.

At the conclusion of the discussion, the following resolution was adopted:

"*Resolved*, That this Conference appreciates the evils resulting from the diverse corporation laws of the various states as set forth in the report of the Committee on a Uniform Incorporation Law, as well as the importance and necessity for the unification of such laws in so far as the same may be practicable. And the committee is requested to continue its work in the line of such unification and to report further on the subject at the next meeting of the Conference."

Your committee has obeyed the command of the Association and has continued its work in the line indicated. It wishes to call attention again to the evils of the present system as indicated in the report of last year and to reiterate its recommendations then made. Every thoughtful citizen as well as every active member of the Bar must have seen during the last year additional evidence of the evils resulting from the

diverse and conflicting laws of the several states upon the subject. These evils are growing more and more apparent. The bidding between the states for the corporation business during the last year has gone on more briskly than ever. More states are continually entering the field and the inducements offered to the organizers of corporations by the different states are becoming greater and greater and more and more scandalous. The states are bidding against one another not only as to taxation and license fees, but upon the question of the powers to be granted, and the security from official supervision and judicial scrutiny. The natural result in the end would seem to be that some state will finally devise a law—if such law has not already been devised—which for the minimum of tax will charter a corporation with the maximum of powers and the maximum of security from control. This final law will combine the minimum of public good with the maximum of public danger.

As we pointed out in our report of last year, the evils are apparent enough, but a remedy under our federal system of government is most difficult. A national incorporation law would secure uniformity so far as it goes, but the field of national action in respect to corporations is at the best exceedingly limited. Congress would seem to have the power to authorize the organization of corporations for the purpose of carrying on interstate commerce, though even this has been questioned, but that would occupy only a small part of the field that corporations now occupy. It has been suggested that the right to authorize corporations is an act incidental to sovereignty, and that the federal government has that right by virtue of its sovereignty, but it is very doubtful if this argument would be sustained by the courts, and it is quite certain that under our present constitutional restrictions the national government could not occupy the field exclusively, but whatever Congress might do, the legislatures of the states might go on creating corporations *ad infinitum*.

To attempt to draw an incorporation law which would

be likely to receive the legislative sanction of all the states is a task from which your committee shrink. If such a law is to be drawn under the sanction of this Conference it should be by someone specially employed for that purpose, as other uniform laws have been drawn.

A difficulty met at the outset is that such a law, in order to serve the public best, must in many particulars serve the corporations least, and so if it is still left open to the corporations to select the state from which they shall obtain their charter, they will select the state which gives them the most and the most dangerous power, and the least useful public scrutiny, and the greatest and the most scandalous exemption from the burdens of taxation. A wise uniform law which should be passed by the legislatures of every state except one, might give that one state a monopoly of the corporation business of the nation, and it would be a plum too rich and luscious to be voluntarily surrendered. A law to be practically effective would have to contain drastic provisions for excluding from doing business within the state corporations organized in states having laws offering less protection to the public interests. Such a law may be possible and we think the necessity for it so urgent that it is worth the attempt to secure it.

So far as a national incorporation law is concerned, the law drawn by Professor Wilgus, and the provisions of which were so clearly and forcibly elucidated in his paper of last year, seem to be as near perfect as we can hope for in such a law.

A national incorporation law will not by any means remedy all the evils of the present system, but it will be a step in that direction quite as valuable perhaps for the example that it would set to the several states, as for the actual reform that it might itself accomplish.

Of course there is always the remedy for this and any other evil resulting from the divided sovereignty between the nation and the states under our system of government, of an amendment of the national Constitution. That is an easy and convenient way to cut the Gordian knot; but Gordian knots

cannot always be cut with safety—without letting blood—and we are yet very far from being ready to recommend such an amendment.

What we do recommend is that the Committee on a Uniform Incorporation Law be continued as a standing committee of the Conference, and that such committee be requested to continue the study of the subject and to report further upon it from time to time as they may be able to arrive at conclusions which seem to them to make a report desirable.

WALTER S. LOGAN,
Chairman.

FRANK BERGEN,
JOHN C. RICHBERG,
J. M. WOOLWORTH,
Committee.

Dated August 18, 1905.

FORMS OF BILLS

RECOMMENDED BY THE

CONFERENCE

OF

COMMISSIONERS ON UNIFORM STATE LAWS

(*With the Exception of the Negotiable Instruments Act, which is contained in the Conference Report for 1900, and of the Drafts of the Sales Act and Warehouse Receipts Act, which have been printed in a separate pamphlet, as revised at 1905 meeting, and will be further considered at the 1906 meeting.*)

☛ *It was Resolved,* That the title of all bills recite that such bill is "an Act to establish a law uniform with the laws of other states," as far as may be practicable.

AN ACT TO ESTABLISH A LAW UNIFORM WITH THE LAWS OF OTHER STATES FOR THE ACKNOWLEDGMENT AND EXECUTION OF WRITTEN INSTRUMENTS.

(Enacting Clause.)

SECTION 1. Either the forms of acknowledgment now in use in this state, or the following, may be used in the case of conveyances or other written instruments, whenever such acknowledgment is required or authorized by law for any purpose:

(Begin in all cases by a caption specifying the state and place where the acknowledgment is taken.)

1. In the case of natural persons acting in their own right: On this day of , 19 , before me personally appeared A B (or A B and C D), to me known

to be the person (or persons) described in and who executed the foregoing instrument, and acknowledged that he (or they) executed the same as his (or their) free act and deed

2. In the case of natural persons acting by attorney:
On this day of , 19 , before me personally appeared A B, to me known to be the person who executed the foregoing instrument in behalf of C D, and acknowledged that he executed the same as the free act and deed of said C D.

3. In the case of corporations or joint stock associations:
On this day of , 19 , before me appeared A B, to me personally known, who, being by me duly sworn (or affirmed), did say that he is the president (or other officer or agent of the corporation or association) of (describing the corporation or association), and that the seal affixed to said instrument is the corporate seal of said corporation (or association), and that said instrument was signed and sealed in behalf of said corporation (or association) by authority of its board of directors (or trustees), and said A B acknowledged said instrument to be the free act and deed of said corporation (or association).

(In case the corporation or association has no corporate seal, omit the words "the seal affixed to said instrument is the corporate seal of said corporation [or association], and that," and add, at the end of the affidavit clause the words, "and that said corporation [or association] has no corporate seal.")

(In all cases add signature and title of the officer taking the acknowledgment.)

SEC. 2. The acknowledgment of a married woman when required by law may be taken in the same form as if she were sole and without any examination separate and apart from her husband.

SEC. 3. The proof or acknowledgment of any deed or other written instrument required to be proved or acknowledged in

order to enable the same to be recorded or read in evidence, when made by any person without this state, and within any other state, territory or district of the United States. may be made before any officer of such state, territory or district authorized by the laws thereof to take proof and acknowledgment of deeds and when so taken and certified as herein provided, shall be entitled to be recorded in this state and may be read in evidence in the same manner and with like effect as proofs and acknowledgments taken before any of the officers now authorized by law to take such proofs and acknowledgments and whose authority so to do is not intended to be hereby affected.

SEC. 4. To entitle any conveyance or written instrument, acknowledged or proved under the preceding section to be read in evidence or recorded in this state, there shall be subjoined or attached to the certificate of proof or acknowledgment, signed by such officer, a certificate of the secretary of state of the state or territory in which the officer resides, under the seal of such state or territory, or the certificate of a clerk of the court of record of such state, territory or district in the county in which said officer resides, or in which he took such proof or acknowledgment under the seal of such court, stating that such officer was, at the time of taking such proof or acknowledgment, duly authorized to take acknowledgments and proofs of deeds of lands in said state, territory or district, and that said secretary of state, or clerk of court, is well acquainted with the handwriting of such officer, and that he verily believes that the signature attached to such certificate of proof or acknowledgment is genuine.

SEC. 5. The following form of authentication of the proof or acknowledgment of a deed or other written instrument when taken without this state and within any other state, territory or district of the United States, or any form substantially in compliance with the foregoing provisions of this act, may be used.

Begin with a caption specifying the state, territory or district and county or place where the authentication is made.

I, , clerk of the , in and for said county, which court is a court of record, having a seal (or I, , the secretary of state of such state or territory), do hereby certify that , by and before whom the foregoing acknowledgment (or proof) was taken, was, at the time of taking the same, a notary public, or other officer) residing (or authorized to act) in said county, and was duly authorized by the laws of said state (territory or district) to take and certify acknowledgments or proofs of deeds of land in said state (territory or district), and further that I am well acquainted with the handwriting of said , and that I verily believe that the signature to said certificate of acknowledgment (or proof) is genuine.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said court (or state) this day of , 19 .

SEC. 6. The proof or acknowledgment of any deed or other instrument required to be proved or acknowledged in order to entitle the same to be recorded or read in evidence, when made by any person without the United States may be made before any officer now authorized thereto by the laws of this state, or before any minister, consul, vice-consul, chargé d'affaires, consular or commercial agent, vice-consular or vice-commercial agent, of the United States, resident in any foreign country or port, and when certified by him under his seal of office it shall be entitled to be recorded in any county of this state and may be read in evidence in any court of this state, in the same manner and with like effect as if duly proved or acknowledged within this state.

[This statute was enacted in Massachusetts, Acts 1894, chap. 253; Michigan Public Acts, 1895, p. 346; Iowa, substantially, Code, 1897, secs. 2959, 2960, 2944-2947.

The forms given in section 1 of this statute have been adopted by statute, in Minnesota, March 3, 1883, Laws 1883, p. 99; 2 G. S. Supp. 1888, chap. 72; Missouri, April 2, 1883, Laws 1883, p. 20; R. S. 1889, sec. 2408; Montana, Civil Code, 1895, secs. 1606-1612; North Dakota, Rev. Code, 1895, sec. 3584; New Mexico, Comp. Laws, 1897, sec. 3945.]

AN ACT TO ESTABLISH A LAW UNIFORM WITH THE LAWS OF OTHER STATES RELATING TO THE SEALING OF DEEDS AND OTHER WRITTEN INSTRUMENTS.

(Enacting Clause.)

SECTION 1. In addition to the mode in which such instruments may now be executed in this state, hereafter all deeds and other instruments in writing, executed by any person or by any private corporation, not having a corporate seal, and now required to be under seal, shall be deemed in all respects to be sealed instruments, and shall be received in evidence as such, provided the word "seal" or the letters "L. S." are added in the place where the seal should be affixed.

Enacted (substantially) in Wisconsin, Stats. 1898, sec. 2215.

SEC. 2. A seal of a court, public officer or corporation may be impressed directly upon the instrument or writing to be sealed, or upon wafer, wax or other adhesive substance affixed thereto, or upon paper or other similar substance affixed thereto by mucilage or other adhesive substance. An instrument or writing duly executed in the corporate name of a corporation, which shall not have adopted a corporate seal, by the proper officers of the corporation under any seal, shall be deemed to have been executed under the corporate seal.

(Substantially) Wisconsin, Stats. 1898, sec. 2215.

AN ACT TO ESTABLISH A LAW UNIFORM WITH THE LAWS OF OTHER STATES RELATIVE TO THE EXECUTION OF WILLS.

(Enacting Clause.)

First. A last will and testament executed without this state in the mode prescribed by law, either of the place where executed or of the testator's domicile, shall be deemed to be legally executed, and shall be of the same force and effect as if executed in the mode prescribed by the laws of this state; provided, said last will and testament is in writing and subscribed by the testator.

[Enacted in Wisconsin, Stats. 1898, sec. 2283; Iowa, Code, 1897, sec. 3309.]

AN ACT TO ESTABLISH A LAW UNIFORM WITH THE LAWS OF OTHER STATES RELATIVE TO THE PROBATE IN THIS STATE OF FOREIGN WILLS.

(Enacting Clause.)

First. That any will duly admitted to probate without this state, and in the place of the testator's domicile, may be duly admitted to probate and recorded in this state by duly filing an exemplified copy of said will and of the record admitting the same to probate; and such will shall then have the same force and effect as if originally proved and allowed in this state.

[Enacted in Wisconsin, Stats. 1898, sec. 3789; (substantially) Iowa, Code, 1897, sec. 3294.]

AN ACT TO ESTABLISH A LAW UNIFORM WITH THE LAWS OF OTHER STATES FOR A UNIFORM STANDARD OF WEIGHTS AND MEASURES.

(Enacting Clause.)

1. The avoirdupois pound to bear to the troy pound the relation of 7000 to 5760. The hundredweight shall contain 100 of avoirdupois pounds, and the ton 20 hundredweight.

2. The barrel shall contain 31½ gallons, and the hogshead two barrels.

3. The dry gallon shall contain 282 cubic inches; the liquid gallon 231 cubic inches.

4. The bushel shall contain 2150.42 cubic inches.

5. A barrel of flour measured by weight shall contain 196 pounds; a barrel of potatoes, 172 pounds.

6. The bushel of wheat to contain 60 pounds.
The bushel of Indian corn, or rye, 56 pounds.
The bushel of barley, 48 pounds.
The bushel of oats, 32 pounds.
The bushel of corn meal, 50 pounds.
The bushel of rye meal, 50 pounds.
The bushel of peas, 60 pounds.
The bushel of potatoes, 60 pounds.
The bushel of apples, 48 pounds.
The bushel of carrots, 50 pounds.
The bushel of onions, 52 pounds.
The bushel of clover seed, 60 pounds.
The bushel of herdgrass, or timothy seed, 45 pounds.
The bushel of bran and shorts, 20 pounds.
The bushel of flaxseed, 55 pounds.
The bushel of coarse salt, 70 pounds.
The bushel of fine salt, 50 pounds.
The bushel of lime, 70 pounds.
The bushel of sweet potatoes, 54 pounds.
The bushel of beans, 60 pounds.
The bushel of dried apples, 25 pounds.
The bushel of dried peaches, 33 pounds.
The bushel of rough rice, 45 pounds.
The bushel of upland cotton seed, 30 pounds.
The bushel of Sea Island cotton seed, 44 pounds.
The bushel of buckwheat, 48 pounds.

AN ACT TO ESTABLISH A LAW UNIFORM WITH THE LAWS OF OTHER STATES RELATIVE TO THE TRANSFER OF STOCK IN CORPORATIONS.

(Enacting Clause.)

SECTION 1. The delivery of a stock certificate of a corporation to a bona fide purchaser or pledgee, for value, together with a written transfer of the same, or a written power of attorney to sell, assign and transfer the same, signed by the owner of the certificate, shall be sufficient delivery to transfer the title as against all parties; but no such transfer shall affect the right of the corporation to pay any dividend due upon the stock, or to treat the holder of record as the holder in fact, until such transfer is recorded upon the books of the corporation, or a new certificate is issued to the person to whom it has been so transferred.

[Enacted in Massachusetts, Laws 1884, chap. 229; Maine, Laws 1897, chap. 298; New Hampshire, Pub. Stats., chap. 149, 514; Rhode Island, Laws 1888, chap. 690; Wisconsin, Acts 1891, chap. 414.]

AN ACT TO ESTABLISH A LAW UNIFORM WITH THE LAW OF OTHER STATES RELATIVE TO MIGRATORY DIVORCE.

SECTION 1. No divorce shall be granted for any cause arising prior to the residence of the complainant or defendant in this state, which was not ground for divorce in the state where the cause arose.

SEC. 2. The word "divorce" in this act shall be deemed to mean divorce from the bond of marriage.

SEC. 3. All acts and parts of acts inconsistent herewith are hereby repealed.

AN ACT TO ESTABLISH A LAW UNIFORM WITH THE LAWS OF OTHER STATES RELATIVE TO DIVORCE PROCEDURE AND DIVORCE FROM THE BONDS OF MARRIAGE.

SECTION 1. No person shall be entitled to a divorce for any cause arising in this state who has not had actual residence in this state for at least one year next before bringing suit for divorce, with a bona fide intention of making this state his or her permanent home.

SEC. 2. No person shall be entitled to a divorce for any cause arising out of this state unless the complainant or defendant shall have resided within this state for at least two years next before bringing suit for divorce, with a bona fide intention of making this state his or her permanent home.

SEC. 3. No person shall be entitled to a divorce unless the defendant shall have been personally served with process, if within the state, or if without the state, shall have had personal notice, duly proved and appearing of record, or shall have entered an appearance in the case; but if it shall appear to the satisfaction of the court that the complainant does not know the address nor the residence of the defendant and has not been able to ascertain either, after reasonable and due inquiry and search, continued for six months after suit brought, the court or judge in vacation may authorize notice by publication of the pendency of the suit for divorce, to be given in manner provided by law.

SEC. 4. No divorce shall be granted solely upon default nor solely upon admissions by the pleadings, nor except upon hearing before the court in open session.

SEC. 5. After divorce either party may marry again, but in cases where notice has been given by publication only, and the defendant has not appeared, no decree or judgment for divorce shall become final or operative until six months after hearing and decision.

SEC. 6. Wherever the word "divorce" occurs in this act, it shall be deemed to mean divorce from the bond of marriage.

SEC. 7. All acts and parts of acts inconsistent herewith are hereby repealed.

AN ACT TO ESTABLISH A LAW UNIFORM WITH THE LAWS OF OTHER STATES RELATIVE TO INSURANCE POLICIES.

SECTION 1. No policy of insurance shall be rendered invalid by reason of any statement, representation or warranty, made by the insured, unless the same shall be material to the risk, or made with intent to defraud.

SEC. 2. No policy of insurance shall contain any condition, provision or agreement, which shall directly or indirectly deprive the insured or the beneficiary of the right to trial by jury on any question of fact arising under said policy, and all such conditions, provisions or agreements shall be void.

SEC. 3. This act shall apply to certificates of fraternal and mutual benefit associations as well as to all other forms of insurance.

SEC. 4. All acts and parts of acts inconsistent herewith are hereby repealed.

OBITUARIES.

ARIZONA.

WILLIAM HENRY BARNES.

William Henry Barnes was born on May 14, 1843, in the town of Hampton, Connecticut. His father, William Barnes, was a Presbyterian minister who preached the funeral sermon at Daniel Webster's grave. His mother, Eunice A. Barnes, née Hubbard, was of the Hale family, distinguished in New England's history. Coming of such stock, young Barnes gave early promise.

When he was a boy of ten his family moved to Illinois. He was educated in the Illinois schools, and for a time attended Illinois College. He was graduated from the University of Michigan at Ann Arbor with the degree of B. A. in the class of 1865. For a year thereafter he occupied himself in teaching. Then he removed to Jacksonville and took up the profession of the law.

Success crowned his efforts almost from the first. In these early years he developed his chief gift, the winning power of oratory. Few men could sway an audience as this young lawyer could. There was about his speech a sympathy that touched the heart and a power that moved and convinced.

In 1870 he was sent to the Illinois constitutional convention. In 1872 he was elected a member of the legislature. He was urged to run for Congress. A vista of political distinction in Illinois stretched before him. But in 1885 President Cleveland tendered him the position of Associate Justice of the Supreme Court of Arizona, and he accepted. He moved to Tucson and for four years served with distinction on the territorial bench. By that time the love for the West held him and he made Tucson his home. He was a firm and active advocate of statehood for the territory.

The following years were the great ones in achievement in Judge Barnes's life. As a criminal lawyer he gained a fame as broad as the Southwest. In his civil practice he was attorney for great corporate interests. Yet his memory will live best in his defense of the Arizona settlers against the encroachments of the San Rafael de la Zanja grant. His finest epitaph is between the calf-bound covers of those books that are upon the lawyer's shelf. In the plain records of many trials, in the unadorned story of Arizona Territory's greatest criminal and civil litigation may be found, yet living, the spirit of the man.

On November 10, 1904, when, at the age of sixty-one, he was in the full prime and vigor of his power, death came suddenly.

He was married in 1875 to Miss Belle J. Bailey. His wife and a daughter survive him. Judge Barnes was a member of the American Bar Association and of the Illinois and Arizona Bar Associations, and belonged to the Odd Fellows, Masons and Elks.

COLORADO.

EDWARD OLIVER WOLCOTT.

Edward Oliver Wolcott was born at Longmeadow, Massachusetts, March 26, 1848, and died on March 1, 1905, at Monte Carlo, Monaco, whither he had gone seeking recovery from a severe attack of pneumonia which he contracted just at the close of the political campaign of 1904.

He was the son of Rev. Samuel W. Wolcott and Harriet Amanda Wolcott, née Pope. His ancestors were among the early pilgrims who left England in the reign of Charles I, and he was a lineal descendant of Roger Wolcott and several succeeding Wolcotts who were governors of Connecticut. Among his ancestors was Oliver Wolcott, one of the signers of the Declaration of Independence, whose son succeeded Alexander

Hamilton as Secretary of the Treasury in Washington's cabinet.

In 1861 his father removed his family to Cleveland, Ohio, where young Wolcott made his home until he went to Colorado in 1871. In 1864 he responded to a call for volunteers, and served for some time in the 150th Regiment, Ohio Volunteers. His preparatory educational course began at the Norwich Academy, Connecticut, and was continued at Cleveland until 1866 when he entered Yale University, taking an academic course. Later he entered the Harvard Law School, being graduated in 1871.

Immediately after graduation from Harvard Law School, he went to Colorado and located at Georgetown in Clear Creek County, but finding that under the laws of Colorado he could not at once be admitted to the Bar, he directed his energy for two years to teaching.

In 1873 he was admitted to the Bar and opened a law office in Georgetown, Colorado; three years later he was elected district attorney for that judicial district, and from that time on his rise in professional and public life was rapid. In 1878 he was elected to the state senate, where his exceptional talents as an orator and debater were first recognized, and within a very short time he had established himself as the leader of that body.

In June, 1879, upon being appointed attorney for the receiver of the Denver and Rio Grande Railway Company, he closed his law office in Georgetown and located in Denver, where, in addition to his railroad business, he speedily acquired a large general practice. In 1882 he was appointed to represent the Burlington railway system in Colorado, and so continued throughout his life. In January, 1886, he was elected general counsel of the Denver and Rio Grande Railroad Company, a position which he held until his death.

In 1889 Mr. Wolcott was elected to the United States Senate, and so well served his state that he was re-elected in 1895.

At the memorial services held in Denver immediately after

the death of Senator Wolcott, one of his most intimate associates used the following language:

"Mr. Wolcott was a man of phenomenal intellectual powers. Facile and sure in his mental operations, I have never known any other man who could so quickly grasp all the features of a complicated problem; who could so readily unravel all the tangled threads of a difficult subject and weave them into a fabric displaying their logical relations and significance. He had the power of rapid and accurate generalization. This quality made him not only powerful in argument, but invaluable as a counselor."

DISTRICT OF COLUMBIA.

WILLIAM H. DOOLITTLE.

William H. Doolittle was born at Akron, Ohio, April 15, 1844. He served in the Civil War as a member of the 141st Pennsylvania Volunteers. He was severely wounded at the battle of Chancellorsville in 1863 and was honorably discharged in 1864. He shortly afterward entered the employ of the government, and on the establishment of the law department in the Columbian University entered upon the study of law, being graduated in 1867.

After a few years' practice of his profession in St. Paul, Minnesota, he returned to Washington and soon thereafter entered the United States Patent Office, serving as assistant examiner and law clerk to the Commissioner of Patents. In 1876 he was appointed by President Grant Assistant Commissioner of Patents, which position he filled for seven years. He then resigned and entered upon the practice of patent law, acting as counsel and solicitor before the courts and the Patent Office. At the time of his death, which occurred at Rexford Falls, Sherburne, New York, October 17, 1904, he was, with his son, still in the active practice of his profession.

Mr. Doolittle was a man of the most kindly and cheerful disposition. No belief of his was tinged with any shadow of

pessimism. He saw chiefly the good in those around him, and in his outlook upon the world delighted in the signs of better things for humanity and for the world at large. He looked upon the things of today as presaging better things tomorrow. He was a student and thinker, and was in all things a man of a pure mind and a clean life, and, within the range of his activities, made himself felt on the side of right and justice. He had many friends and no enemies.

He possessed a naturally judicial turn of mind. He intuitively seized upon the rights and equities of a case presented to him. In the discharge of his duties as Assistant Commissioner of Patents, which were mainly of a judicial character, this mental quality of his was of great service.

Mr. Doolittle was a past commander in the Grand Army of the Republic, and was president of the Union Soldiers' Alliance. He was the author of "Inventions of the Nineteenth Century," published in 1901, as a part of a series of works on different subjects, written by American, Canadian and British authors. Mr. Doolittle was a member of the Patent Law Association of Washington, District of Columbia. At a meeting of that Association, held October 19, 1904, suitable resolutions were adopted in his memory.

WILLIAM AUGUSTUS MELOY.

William Augustus Meloy, eldest son of Frederick William Meloy, of New Haven, Connecticut, and Martha Emilia Willard (daughter of Dr. Samuel Willard, and a descendant in the seventh generation of Major Simon Willard, an emigrant from Kent, England, in 1634), was born at Chenango Forks, New York, August 26, 1832, numbering among his ancestry the Pynchon, Dwight, Beecher and other well-known families of New England. He was educated at Binghamton Academy and Yale University, class of 1854. He studied law at Ellicottville, New York, under Judge Chester Howe, and was admitted to the Bar at Buffalo, September 8, 1856. He formed a partnership with William Pitt Angel, having offices at Ellicottville and

practicing in the western counties of the state. In 1858 he was appointed District Attorney for Cattaraugus County, New York.

During the Civil War Mr. Meloy abandoned practice to follow the army. After being twice rejected by the examining board for physical disability, he became the Washington correspondent of several New York papers. In May, 1864, he was appointed to a clerkship in the War Department, resigning a month later to accept one in the Treasury Department, where, until his resignation in 1868, he had charge of the correspondence relating to government loans. He then opened a law office in Washington, becoming associated with Albert G. Riddle and Francis Miller, and established his residence in Prince George's County, Maryland. In 1873 he became an Assistant United States Attorney for the District of Columbia; in 1879 he formed a partnership with George W. Julian, which continued until 1885. At one time he held the position of Assistant Attorney General of the United States. In 1883 he was commissioned an Assistant Attorney General of the State of Indiana, representing that state at Washington, District of Columbia, until 1889, and in the spring of 1905 he was recommissioned by special act of the legislature of the state.

In 1874 he, with Francis Miller and several others, organized the Yale Alumni Association of Washington, of which for more than ten years he was secretary and for three years vice-president. In 1889 he was elected on the republican ticket a delegate from Prince George's County in the Maryland legislature.

Mr. Meloy was an active member of Trinity Episcopal Church of Washington, serving for twenty odd years as vestryman and warden, and representing the parish at all the church conventions during the last quarter century. He was considered one of the best authorities on diocesan laws.

He was married December 16, 1868, to Emily J., eldest daughter of William Nourse, of Washington, District of Col-

umbia, and widow of Captain Alexander S. Steuart. They have had three sons and three daughters.

Mr. Meloy died September 20, 1905, at his country home "Longview."

WILLIAM JOHN MILLER.

William John Miller, a member of the American Bar Association and of the District of Columbia Bar, died at Washington, District of Columbia, on May 15, 1905. He was seventy-three years old, and had been in active practice for thirty-seven years.

Mr. Miller was born at Baltimore, Maryland, in 1831, and went to Washington when twelve years of age. He was employed when a young man by the Baltimore and Ohio Railroad Company, and while thus engaged studied law, and in 1858 was admitted to the Bar of the Circuit Court of the District of Columbia, which was abolished by the act of Congress of March 3, 1863, which act established the present Supreme Court of the District of Columbia. There survive only three members of the Bar of the old Circuit Court, Mr. William F. Mattingly, Mr. Nathaniel Wilson and Mr. Eugene Carusi, all of whom are still in the active practice of the law.

For a number of years Mr. Miller was associated with Mr. Eugene Carusi. The partnership was dissolved in 1893 when he became associated with Mr. T. Percy Myers, and remained in active practice before the courts until his last illness, which was of but a few weeks duration.

During his long and honorable career he was a consistent example of the best traditions of the Bar. He was universally respected for his courage, his integrity, his courtesy and remarkable industry, and was commended to an unusual degree for the fairness and generosity which characterized all his dealings with his brother lawyers, the younger as well as the older, in court and out of court.

As a citizen he always evinced the warmest interest in the municipal, charitable and educational affairs of the District of

Columbia. At the time of his decease he was president of the Board of Children's Guardians, of which body he had been a member for a number of years.

Mr. Miller left surviving him his wife and six children. Two of his sons are engaged in the practice of law in New York City.

GEORGIA.

POPE BARROW.

Pope Barrow was born August 1, 1839, on the plantation of his maternal grandfather, Middleton Pope, in Oglethorpe County, Georgia. His father was David Crenshaw Barrow, who was a member of the state senate and for a long time a trustee of the University of Georgia. Among his prominent ancestors he numbered Wilson Lumpkin, once governor of Georgia, and James Barrow, a soldier of the Revolutionary army, who was stationed at Savannah, Georgia, in the summer of 1776, and served through that dismal winter at Valley Forge and fought in the battles of Brandywine and Germantown.

He received his education at the University of Georgia, being graduated from the law department of that institution in 1860. With the vast majority of its patriotic alumni and students, he hastened to the front immediately upon the breaking out of the hostilities between the states. He entered the service in the Confederate army as a lieutenant with the Troop Artillery. Serving gallantly, promotion soon came, and he was made captain upon the staff of Major General Howell Cobb, with whom he served until his capture near the close of the war.

Entering upon the practice of law at Athens, Georgia, he soon forged to a front place among his professional fellows. He was elected to the state legislature and to the constitutional convention of 1877, and afterwards served with honor as a member of the United State Senate, becoming one of the

most prominent figures in the democratic party of his state, being a delegate to numerous state conventions as well as the National Democratic Convention of 1888.

He was twice married. First to Sarah Church Craig, daughter of Lewis Stevenson Craig, Lieutenant Colonel, U. S. A., of Fredericksburg, Virginia, and afterwards to Cornelia Augusta Jackson, daughter of Henry R. Jackson, of Savannah.

Continuing for a while the practice of his profession in Atlanta, he eventually, in 1892, located in Savannah, where the remainder of his life and labors were spent.

On January 6, 1902, he was appointed judge of the Superior Court of the Eastern Judicial Circuit of Georgia, and in the following year he was elected by the people to the same office for the term of four years. In the midst of his duties and in the busiest, and, in many respects, the happiest years of his life, he was stricken suddenly upon the bench and died December 23, 1903.

In becoming frankness, he was accustomed to say that he was in no sense a self-made man, but that he owed all his achievements in life to the considerable means which he inherited and his numerous and powerful family connections. While in his modesty in this regard, he did not give full credit to his own ability and efforts and their results, still his inherited means and early environment, no doubt, encouraged the development of the charming hospitality and delightful manners which always distinguished him as a marked type of the true, old-time Southern gentleman to the manner born.

Unlike the majority of the mad hunters of wealth of the present generation, the delight of Pope Barrow's life was in his friendships and in the delightful intercourse of kindred spirits.

Forming rapidly lasting friendships in his adopted home, Savannah, with its Southern customs and delightful society, soon became very dear to him. Earnest and sincere in his desire to be of service to the people of his native state and community, his appointment and subsequent election as judge

of the Superior Court was esteemed by him as one of the greatest honors that had come into his life. Like the venerable Herschel V. Johnson, he recognized how sacred was this position and how much the rights of the people as well as the morals of the community depended upon his faithful discharge of the duties imposed upon him. No incident displayed more strikingly his love for Savannah and his work than his refusal of the tender made him of appointment as a justice of the Supreme Court of the State of Georgia.

ILLINOIS.

THOMAS A. MORAN.

Thomas A. Moran, for many years a leading figure at the Chicago Bar, was born of Irish parentage at Bridgeport, Connecticut, October 7, 1839. His parents came West when he was seven years of age and made their home on a farm near Kenosha, Wisconsin.

As the boy grew to young manhood he showed a strong liking for books, became a student at Liberty Academy in Salem, afterwards taught school and became a member of various neighborhood debating societies. He was attracted to the law, began his studies in Kenosha and afterwards entered the Albany Law School from which he was graduated in May, 1865, taking up his residence in the fall of that year in Chicago, where he afterwards resided and there beginning the practice of his profession.

As a young man he met with ready success at the Bar, particularly in the trial of cases. He was studious and diligent in his preparation on the law, and careful and painstaking in developing the facts.

Always an ardent democrat, in 1879, when there was much dissatisfaction with some of the republican nominees, he was nominated on the democratic ticket for circuit judge and elected with the entire ticket. He was re-elected in 1885 and

again in 1891, resigning in 1892 to become a member of the firm of Moran, Kraus & Mayer.

In 1886 he was assigned by the Supreme Court to sit in the Appellate Court of Illinois for the First District. He remained a member of that court from that time until he left the Bench. He was an able judge both at *nisi prius* and upon the appellate Bench. Having had thus an extended experience at the Bar and on the Bench, being a man of great natural force both physical and mental, of acute and discriminating mind, gifted with the fluency and eloquence of his race, he was at the time of his death one of the most dangerous adversaries in forensic controversy to be found at the Chicago Bar. He did not, with increasing age, decline jury cases, but wisely concluded not to deprive himself of this invaluable stimulus to logical, forcible and convincing reasoning and argument. While aggressive and sometimes even truculent in the court room, in personal intercourse with his brethren of the Bar, he was always affable, modest and companionable in the highest degree. As a political speaker, he was highly effective with a rough and ready half-humorous style that seemed to strike the popular fancy. He always took an active interest and a large part in public affairs. He was for many years Dean of the Chicago College of Law.

In 1868 he married Miss Josephine Quinn, of Albany, who, with their children, survives him.

He died November 18, 1904, in New York City, whither he had been called on professional business. Till then he was apparently in good health and in the full tide of an extensive and successful practice.

JULIUS ROSENTHAL.

Julius Rosenthal was a learned man and a lawyer of genuine and profound attainments. Born September 17, 1828, in Liedolsheim, Germany, he pursued his studies at the Lyceum of Rastadt for eight years, being graduated there at the age of twenty.

For about two years and a half he then devoted himself to the study of jurisprudence at the Universities of Heidelberg and Freiburg. Soon after, in 1854, he came to this country, landing at Portland, Maine, stopping a few months in New York City and then coming to Chicago, which was thereafter his home.

He was first employed as a conveyancer in a bank, and in 1858 started on his own account in that capacity. In 1859 he was appointed by the governor public administrator of Cook County, a position which he filled with conspicuous fidelity and ability until 1884. He was admitted to the Illinois Bar in May, 1860, and practiced in Chicago from that time to the day of his death.

He was associated with different lawyers, among others and for many years with the late A. M. Pence. In 1894 he formed a partnership with his son Lessing, which continued during the remainder of his life.

Mr. Rosenthal had the habits and instincts of the student and the scholar. He read and studied law as a science and with a profound appreciation of it and a keen interest in it. He seldom appeared in court or participated actively in forensic controversy. His opinion was often sought in large transactions, particularly in those relating to real estate, on questions arising on wills and as to probate matters generally. On all these topics he was a recognized authority.

He was an extensive reader of general literature, and his library was one of the finest in the city.

He devoted much time and effort to building up the great law library of the Chicago Law Institute, of which he was for many years librarian. He worked diligently to promote the cause of legal education and was largely instrumental in securing the adoption by the Supreme Court of Illinois of rules requiring three years' study before admission to the Bar and otherwise raising the standards of admission.

He was a man of the strictest and most uncompromising

probity and integrity, and he commanded the confidence and respect of all who knew him.

In 1856 he married Miss Jette Wolf. His widow and four children, two of them sons, both lawyers, survive him.

His death occurred on May 14, 1905.

GUY PAYSON WILLIAMS.

Guy Payson Williams died suddenly of heart failure at his home in Galesburg, Illinois, on January 19, 1905, aged thirty-six years. He was graduated from Knox College in 1890, and at once began his preparation for the law in the office of Williams, Lawrence & Bancroft. After two years there and a year of study at the New York Law School, he was admitted to the Bar of Illinois in 1893 and became soon after a member of the firm of Williams, Lawrence & Williams at Galesburg. From that time until his death he was actively engaged in the practice of his profession, in which he achieved distinction for the thoroughness and accuracy of his work and the clearness and force of his arguments.

His father, Edward P. Williams, who survives him, has been a leader of the Bar of that circuit for many years, and from him the son inherited a love for the study of the law. He had that grasp of legal principles which is a prerequisite to any broad and accurate investigation of the complicated questions of fact and law which constantly arise in the general practice. He reasoned out his case before his search for decisions began.

His thoroughness of preparation, keenness and tenacity of purpose and unflinching loyalty won the respect of his opponents and the friendship of his clients. In argument he was simple, direct, clear, logical and concise.

Modest and retiring in disposition and manner, he won advancement by the strength of his mind, his industry and the integrity of his character. To his legal attainments he added a wide acquaintance with history and literature. He was

a lover of books, and had collected a choice library of English classics.

In all his relations he was considerate, kindly and companionable. He made and kept many close friendships, and was always proving his loyalty by acts of sympathy and helpfulness.

He was a member and had been vice-president of the Illinois Bar Association. He was also one of the organizers of Battery B of the state militia and a member of several local societies. He was a Royal Arch Mason, and was specially interested in the affairs of his college fraternity, the Phi Delta Theta.

Though he never sought public office, Mr. Williams was active in the duties of citizenship and gave hearty support to the cause of civic betterment.

INDIANA.

EPHRAIM MARSH.

Ephraim Marsh, of Greenfield, was born in Hancock County, Indiana, June 2, 1845, and died at Lake Wawasee, Indiana, July 23, 1905. He was the son of Jonas and Catharine Marsh. The former was of English-Quaker descent and the latter of Scotch-Irish blood. He had the advantage of the common schools of his boyhood days, and when about eighteen years of age entered the Knightstown Academy where he remained for one year. Later he entered Asbury, now DePauw College, at Greencastle, Indiana, where he became a member of the Phi Delta Theta Society, and was a popular and successful student. He was poor, and in his struggle to complete his college course endured many privations. He was graduated in 1870.

Before his graduation he had seen a great deal of the active duties of life on his father's farm, as a clerk in a country store for his brother, Montgomery Marsh, in teaching school and

as a clerk in the third auditor's office of the treasury department at Washington, District of Columbia.

He became deputy county clerk in 1872, and was elected clerk of the Hancock Circuit Court in 1874 and in 1878, serving until November 21, 1882.

In the meantime he had read law in the office of Captain Reuben A. Riley and continued his studies during his incumbency of the clerk's office, so that when he closed his term as clerk he was a well-equipped lawyer, and on the next day, November 22, 1882, formed the partnership with William Ward Cook, which continued until his death.

He was chairman of the Democratic County Committee of Hancock County in 1880 and 1882 and secretary of the State Committee of that party in 1888.

At the time of his death he was the oldest active practitioner of the Hancock Bar; for almost twenty-three years he and his partner had appeared in practically all the important cases tried in this court and in many of the cases tried in the courts of the adjoining counties, as well as in the federal court at Indianapolis.

Mr. Marsh was especially valuable as counselor. His thorough knowledge of the law, his peculiar and accurate insight into human nature, his rare business ability and his sound judgment gave him prestige and made his views and opinions of great value. His genial, social nature made him easy of access.

Mr. Marsh was a ripe scholar. He never ceased to be a student. To his broad and thorough learning he had added the finish and polish which comes from contact with men and extensive travel. He had visited every part of the United States and made an extended tour of England, Ireland and Scotland and on the continent of Europe.

On February 9, 1875, he was married to Miss Tillie J. Brewer, of Franklin, who, with a daughter, survive him.

MARYLAND.

JOHN S. WIRT.

John S. Wirt died at his home in Elkton, Cecil County, Maryland, May 17, 1904. He was the second of three sons of Dr. John W. Wirt, a prominent citizen and physician of that county whose ancestors originally came from Pennsylvania, and his mother was Margaret Biddle, descended from an old family of the Eastern Shore of Maryland. He was born on one of the estates of his father near Cecilton, in Cecil County, on November 16, 1851, but soon after his birth the family removed to Elkton where Dr. Wirt died within a few years after locating there and where young Wirt spent his childhood, early manhood and most of his life. He was fortunate in having in his mother the training of a woman of strong character, and he profited in his youth by the instruction of Mr. Mitchell, a clergyman of the Protestant Episcopal Church and rector of the Elkton Parish, whom his mother married some years after the death of her first husband.

Mr. Wirt was graduated at St. John's College, Annapolis, in 1872 as a first honor man, and his valedictory oration gave promise of a brilliant career. Two years later he received the degree of Bachelor of Laws from the University of Maryland after a two years' course of study at that institution, and he was then admitted to the Bar of Baltimore city, where he began the practice of law with his life-long friend, L. Allison Wilmer, who was graduated with him at the university and who is now a member of the Bar of Charles County, Maryland. He continued to practice in Baltimore until 1878 when, upon the advice of his kinsman, Justice David Davis, of the Supreme Court of the United States, he entered the office of Judd & Whitehouse, attorneys, in Chicago. He remained in Chicago only a few years, returning to Elkton upon the death of his younger brother, Henry B. Wirt, a member of the Cecil County Bar, and he there established himself as a leader of that Bar.

In 1886 he married Miss Anne R. Pearce, of Elkton, who survives him. Neither he nor his two brothers left any children, and thus this family name has become extinct in Maryland.

As has been well said of him by one of the judges of the Court of Appeals of Maryland: "Mr. Wirt was an accomplished lawyer, both in counsel and at the trial table. Thoroughly grounded in the fundamental principles of the law while at the university, he never ceased to be a student of the philosophy of the law as taught by Story and Dillon, Austin and Maine, as well as of its exposition in the concrete by the courts of England and of this country. His powers of logic were strong and acute, his judgment sound and cautious, and though the fire of enthusiasm burned brightly within him, it kindled without consuming his reasoning faculty. His courage always rose with the occasion, and no opposition could shake his firmness of purpose; while his dignity and courtesy were unfailing."

MASSACHUSETTS.

GEORGE W. MORSE.

George W. Morse, of Newton, senior partner of the law firm of Morse, Hickey & Kenny, of Boston, Massachusetts, died of pneumonia at Marseilles, France, April 9, 1905.

Mr. Morse was born in Lodi, Athens County, Ohio, August 24, 1845. At the outbreak of the Civil War he joined the Second Massachusetts Regiment under General Gordon, which became famous as one of the fighting regiments of the war. He served four years and three months, having re-enlisted upon the field, and came home at the age of nineteen in command of one of its companies. He was in every battle fought by the regiment, except during four months, while a prisoner of war at Libby and Belle Isle. Nearly all of the original officers were either West Pointers or Harvard graduates. Mr.

Morse was the youngest man of the company by three years, and the only one upon its original rolls who was ever commissioned.

At the end of the war he entered Dartmouth College, and after finishing there came to Boston, where he practiced law for upwards of thirty-five years. He was admitted to the Suffolk Bar in June, 1869. He later took a course at the École de Droit and at the Sorbonne in Paris. Dartmouth College conferred upon him the degrees of Bachelor of Science and Master of Arts. He edited and published a newspaper, the "Ashland Advertiser," the first year after leaving college and began his active practice in the office of George Bemis, (celebrated in the Webster-Parkman case), and also opened an office in Ashland, where he was then living.

For fifteen years Mr. Morse was counsel in street railway matters and for the General Electric Company, and as such had charge of the foreclosure and reorganization of the railway systems in many of the Southern cities. He organized several of the street railways operated westerly and northwesterly of Boston. For twelve years he was active in their administration as counsel and director, and at one time as president. These railways operated in the Newtons, Waltham, Watertown, Lexington, Concord, Needham and a portion of the outlying districts of Boston. His genial disposition brought him hosts of friends wherever he went. His energetic and able prosecution of the causes in which he was engaged satisfied and increased the number of his clients.

Mr. Morse represented the city of Newton for two terms in the General Court. He had always been a republican in politics. He was a descendant of Anthony Morse, of Marlboro, England, who settled in Newbury, Massachusetts, in 1635, and who was also the ancestor of Jedidiah Morse, the first American geographer, and Samuel F. B. Morse, inventor of the electrical telegraph. On the maternal side he was descended from Job Lane, of Bedford, Massachusetts, who came here from England in 1635; from Nathaniel Page, also

from Bedford, who first settled in Roxbury in 1686; from the Browns, who were among the patriots of Lexington Green, and, through them, from Thomas Makepeace, who settled in Boston in 1637.

Mr. Morse was a member of the military order of the Loyal Legion of the United States, the Grand Army of the Republic, Sons of the Revolution, the Boston Art Club and the Boston Athletic Association.

In 1870 he married Miss Clara R. Boit, of Newton. They had eight children, six of whom are living.

MICHIGAN.

WILLARD M. LILLIBRIDGE.

Willard M. Lillibridge was born April 26, 1846, at Taberg, Oneida County, New York, and was graduated from Hamilton College, Clinton County, New York, in 1869. Soon thereafter he was chosen superintendent of the public schools of Plattsburg. Two years later he went to St. Louis, Missouri, where he pursued the study of the law for about one year. He then went to Detroit, Michigan, where he entered the law offices of Walker & Kent as a law student. Mr. Lillibridge came to the Bar in 1873. A successful and lucrative practice followed, principally in the equity and the probate court.

In 1881 he formed a partnership with Charles K. Latham, which continued until he was called to the Bench of the Wayne Circuit Court at Detroit in 1893.

As a practitioner at the Bar his manner was always serious, yet pleasing. In the preparation of his cases he was thorough, and his devotion to his cause and his clients' interests was ever apparent. As a counselor at law he was retained in many important cases beyond his own county and state, one of the best known being the case of Richardson *vs.* Swift in the Court of Errors and Appeals of Delaware. His foundation was well laid, and he was well read in all the principles of the

law. A quiet and thorough student, he made himself familiar with the decisions which he anticipated might be brought forth in the case at hand.

Assuming the duties of judge in 1893, he soon won the general respect of the people as well as of the members of the Bar. His decisions were indicative of a high sense of equity and justice, and marked with careful deliberation and conscientious efforts. On the Bench he was courteous, amiable and dignified, but never austere. Judge Lillibridge was particularly strong in the chancery division of the court.

In politics, in the common significance of the term, he might well have been termed a failure. In the political campaign of 1893 he was brought forward, not by his own efforts, but the efforts of those who knew his sterling worth as a citizen and a lawyer and his befitting qualifications for the judicary. He was thus nominated upon the republican ticket and elected.

In 1899, the end of his six year term, Judge Lillibridge's friends brought his name forth for renomination. Personally he made no effort to be renominated, and remained firm in his belief that the dignity of his office and the duty that he owed to the public would not warrant him in making any personal canvass. He was defeated in the republican convention in 1899.

For fully three years before his death Judge Lillibridge was in ill health, and traveled much for treatment and recuperation. He died at Stockbridge, Massachusetts, on October 2, 1904.

Judge Lillibridge was married in 1882 to Miss Catherine Hageman, daughter of Joseph Hageman, of New York. The widow and two children survive. He was a member of the Detroit Club, the Prismatic Club and was a Mason of high degree. Judge Lillibridge's private life was most exemplary. An active member of St. John's Episcopal Church, his outward life betokened in a true sense the "inward man," and he was a Christian gentleman. His was a character highly esteemed, and his death was a loss, not only to the Bench and Bar, but to the community at large.

MISSOURI.

ADIEL SHERWOOD.

Adiel Sherwood, son of Thomas Adiel and Mary Ellen Sherwood, was born July 14, 1863, at Mount Vernon, Lawrence County, Missouri. His childhood was spent on his father's farm, near Springfield, in Greene County, until 1876, when the family moved to St. Louis. He attended school at Drury College, Springfield, was educated in part in the public schools of St. Louis and the St. Louis University, and finally was graduated May, 1884, from the Cincinnati Law School with the degree of LL. B. He was admitted to the Bar of Missouri September 1st of the same year.

He accepted appointment as a member of the legal staff of the St. Louis and San Francisco Railway, and remained in the law department of that corporation till April 1, 1893, when he terminated his official relation to enter upon the general practice of his profession in St. Louis. During the period of nearly nine years, while assistant attorney of the St. Louis and San Francisco Railway, in his faithful and capable administration of his professional duties and vigilant protection of the interests of his corporate employer, he became admirably equipped to grapple with and solve the complex and intricate legal problems of corporation law, for which his talents and experience especially adapted him. In this important and lucrative field of professional effort constant demand for his services in litigation involving large interests was soon afforded him, and, thereafter, until his honorable and successful career was summarily closed by his taking off before arriving at the full maturity of his professional reputation as counselor and advocate in state and federal tribunals, alike in trial and appellate courts, he achieved signal triumphs in directing, representing and battling for the large and important interests of many of the greatest aggregations of capital in this era of great corporate enterprise and combination.

In the higher courts particularly, his close analytical rea-

soning, powerful logic, exhaustive array of authority and complete statement of legal propositions involved in questions of constitutional and corporate law, gained for him the respect and appreciation of the members alike of the Bench and Bar of his native state.

For years he took an active interest in the State Bar Association and filled the office of treasurer. He was ever alive to the best interests of his profession and willing to devote his time and energy to promote them.

Possessed of a comprehensive knowledge of political history and public affairs, in the midst of his active life he was not unmindful of his obligations as a citizen and gave his time liberally to public service. His success on several noted public occasions, in the discussion of prominent subjects of the day, demonstrated his power and force as a speaker and debater. While well fitted, he was without ambition for public or political preferment and remained content to exercise his potent influence in state councils and conventions for the advancement of his party's interests or gratification of the ambition of his friends and associates.

He was a scholarly member of the Bar at which he practiced and possessed well developed literary taste and a strong love for law in its noblest aspect, the science of human rights. He was a wide reader in both legal and general literature.

Adiel Sherwood had a large circle of friends who loved and esteemed him for his fine qualities of mind and heart. He was a Mason of prominence and influence.

AMOS MADDEN THAYER.

Judge Amos Madden Thayer, who died April 24, 1905, respected and beloved by the Bench and Bar as well as by the people of the Eighth Judicial Circuit of the United States, was born October 10, 1841, at Minoa, Chautauqua County, New York. His father, Ichabod Thayer, was a respected farmer residing in that county, and his grandfather, Ichabod Thayer, commanded a company of Massachusetts volunteers

in the Revolutionary War. His mother, Fidelia LaDue, was a descendant of a sturdy Huguenot family, and her father was a soldier in the War of 1812 and her grandfather served in the Continental army.

His boyhood was spent on a dairy farm in Chautauqua County, New York, and he received his preliminary education at Westfield Academy and later entered Hamilton College in 1858. He was diligent and capable as a student and was graduated in 1862 third in a class of forty, winning the philosophic oration. His affection for his alma mater was never diminished, and in later life he was honored with the degree of LL. D.

Shortly after his graduation on July 21, 1862, he was authorized by the adjutant-general of New York to enroll a company of volunteers, and on August 15, 1862, was commissioned second lieutenant of Company D, 112th New York State Volunteers, and was mustered into the service of the government. On October 6, 1862, he was at his own request transferred to the signal service and was appointed acting signal officer and served in that capacity until June 19, 1863, when he was commissioned by President Lincoln as first lieutenant of the United States Signal Corps, and held that commission until August 9, 1865, when he was discharged, having in the meantime been successively breveted to the honorary rank of captain and major for valiant and faithful service. During his military service he participated in a number of important engagements, being present at the attacks of Newburg, Martinsburg, Harper's Ferry, Chambersburg, and in the battles about Petersburg, which resulted in the surrender at Appomattox. His faith in and loyalty to the federal government and our American institutions were firmly established and sealed by his service in the army.

After his discharge he returned to his birthplace, where he remained for a few months, and in February, 1866, went to St. Louis, having determined to prepare himself for the profession of the law. He pursued his legal studies in a lawyer's

office for two years, and was admitted to the Bar of St. Louis in 1868. He attained considerable success as a lawyer, and by his uniform courtesy, probity and sincerity of character, exact and wide learning, attracted the attention of the lawyers and judges of St. Louis and gained many friends.

In the fall of 1876 he was nominated by the democratic party and elected as a judge of the Circuit Court of the city of St. Louis, taking his seat on the 1st of January following. At the end of a term of six years he was re-elected in 1882. While holding this office he was, in 1887, appointed by President Cleveland as United States district judge for the Eastern Division of the Eastern Judicial District of Missouri. He discharged the duties of this office with such singular fidelity, care and success that President Cleveland in his second term appointed him, on August 9, 1894, United States circuit judge for the Eighth Judicial Circuit, which office he filled until his death, having at times before that occupied a seat on the United States Circuit Court of Appeals for the Eighth Circuit.

At the time of his death he had completed a continuous service on the Bench of over twenty-eight years. During all this time he endeared himself to his associates on the Bench, to the Bar and to the people of the community in which he lived, and gave unmistakable evidence of those qualities of heart and of mind which go to make up the good and successful judge. He was conspicuously urbane, fearless and courageous, patient, diligent and careful in the consideration of every detail of every cause that was tried before him. To him the law was indeed the perfection of reason, and while he was imbued with a deep sense of its justice, he was also possessed of a heart keen to all human sensibilities, which made the administration of justice to him, not only a high and stern duty, but also a humane exercise of power.

By these qualities he established a reputation as a broad-minded and learned lawyer possessed of a remarkable judicial equipoise, and of a temper and manner which marked him as peculiarly fitted for the Bench.

Judge Thayer was married December 22, 1880, to Miss Sidney Brother, who, with an only daughter, Louise, survive him.

Among the important opinions delivered by him, and which display his distinguishing characteristics of learning, logic and strength, may be mentioned the case of Hopkins *vs.* The Oxley Stave Company, 28 C. C. A. 99, and the great case of the United States *vs.* The Northern Securities Company (1903), 120 Fed. Rep. 721.

His opinion in the latter case displays, in an eminent degree, Judge Thayer's reasonable view of the law and his confidence in its majesty and power as well as his masterly methods of judicial treatment of a singularly important and far-reaching subject. It established his reputation as one of the great judges of this country.

His view that the law must in all things be reasonable was well exemplified in the opinion rendered by him in the case of the Kansas City Star Company *vs.* Carlisle (1901), 108 Fed. Rep. 344, in which he discussed with clearness and precision the limits of the rule excluding hearsay testimony, and held that hearsay testimony was admissible to sustain a plea in mitigation in a libel suit against a newspaper where it was claimed that the reporter of the paper had used every effort to ascertain the truth of the matters published concerning the plaintiff, and evidence was held to be admissible showing the information obtained by him to be in good faith and on which the publication was based.

On the completion of his twenty-fifth year of judicial service, the Bar of St. Louis tendered Judge Thayer a complimentary banquet, and he enjoyed the felicity of listening to words of praise which are usually spoken only at the bier.

During his long years of usefulness he took a deep interest in the young men preparing for the law, and he was for many years a lecturer in the St. Louis Law School on the subjects of contracts, jurisdiction of the federal courts, real property and equity. His preparation for these lectures and the instruc-

tion given by him to the students widened his own view of the law and had a perceptible influence upon his judicial career.

At the annual meeting of the American Bar Association held at St. Louis in September, 1904, Judge Thayer delivered the annual address, his subject being, "The Louisiana Purchase; Its Influence and Development under American Rule." The address is published in Vol. XXVII (1904), of the reports of the Association, and displays care and painstaking research as well as the broad philosophic and humane views of Judge Thayer on this important subject.

To him the court was indeed the temple of justice, and in his view and example was realized that

"Of law, no less can be said than that her seat is in the bosom of God; her voice, the harmony of the universe. All things in heaven and earth do her homage, the very least as feeling her care, and the greatest as not exempted from her power."

MONTANA.

WILBUR FISK SANDERS.

Wilbur Fisk Sanders was born at Leon, Cattaraugus County, New York, May 2, 1834, and died at Helena, Montana, July 7, 1905. His parents were Ira and Freedom Edgerton Sanders. He received a common school education, then removed to Ohio where he taught school and studied law, and was admitted to the Bar in 1856 and entered upon the practice of the law. At the outbreak of the Civil War he recruited a company of infantry and a battery of artillery, and was appointed first lieutenant in the 64th Ohio Regiment and went to the front. He was soon afterwards assigned as assistant adjutant-general on the staff of General James W. Forsyth, and assisted in the construction of the defenses along the railroad south of Nashville. In 1862 ill health compelled him to resign from the service. In the following year he went West

and arrived in Montana in September, 1863. Montana was then a part of the recently created territory of Idaho which embraced the immense area now included in the states of Montana and Idaho. Upon his arrival the young lawyer, who was destined to play such a prominent and memorable part in the history of the state, found a reign of lawlessness prevailing and a murderous band of robbers, known as road agents, exercising a dreaded and practically unquestioned sway. The population of the territory was then mostly located in its southwestern portion, where it had been attracted by the discovery of gold. With few exceptions, it was made up of adventurous but law-abiding and justice-loving men. The courts were too far away to be known to them, and until late in the following year, 1864, no court was held in these parts. Voluntarily organized tribunals, known as miner's courts, to whose jurisdiction the people submitted their disputes, administered justice and settled their ordinary controversies. But there were practically no courts with power over criminals, and the road agents, feeling immune from prosecution, became so bold in their crimes as to be a terror to the community. Sanders's fearless and aggressive nature and his regard for order rebelled against such conditions, with the result that an organization, known as the Vigilantes of Montana, was organized. The most notorious of the outlaws were arrested and tried in open daylight before a jury in a miner's court and in a manner as nearly similar as could be to judicial forms. Sanders acted as a prosecuting attorney and the men were convicted and hanged, and the reign of outlawry was soon ended. In May, 1864, Montana was organized into a territory and later in the year courts were established. The organization which Sanders had been instrumental in forming voluntarily and without resistance yielded its functions to the properly constituted authorities. Forever after Sanders set his face against any invasion of the functions of the judiciary. Lynch law found no favor with him, and his influence was exerted to prevent the meting out of justice to criminals except

through the proper instrumentalities of justice. His action in prosecuting the road agents revealed the nature of the man, ever prone to disregard danger and to strive for principle and order irrespective of possible consequences to himself. His sobriety of judgment was manifested in his loyal support of constituted authority, even at times against the intemperate desires or actions of former associates. He displayed these qualities during the forty-two years of his life in Montana. During that time he was one of the leaders of the Bar. He was a great student, not only of law, but of literature and history.

He was noted for his mastery of the English language and for his eloquence, his power of invective, wit and sarcasm. His keenness of intellect and his powers of speech called forth from Robert G. Ingersoll, to whom he was opposed on the trial of a noted case, the remark that "Sanders was the keenest blade he had ever crossed."

Sanders's career illustrates the great influence which a man of courage, conviction and ability may exercise in a community and state. He served several terms in the state legislature and one short term in the United States Senate, the latter from 1890 to 1893. With these exceptions, he never held public office, although he ran for Congress several times when Montana was largely democratic. During all that period he was the most notable personality in the state. He did not have the money-making instinct and did not seek to make money. Speaking of this, he said, not very long before his death, that he could not have devoted himself to money making without changing the whole course of his career, and that he would not have done so if he could. As a result, he lived and died a comparatively poor man, but he won the respect and admiration of his fellow citizens. His death was universally deplored. Upon his demise a strong, spontaneous movement was started and an organization formed to erect a suitable monument to his memory at the state capital, and have a statue of him placed in the national capitol at

Washington. The organization embraces not only his personal and political friends, but political opponents as well.

He died of a cancerous affliction of which he had suffered for a number of years. He was never heard to complain or show either impatience or discouragement during the progress of the ailment; in fact, he seemed to grow more gentle and more kindly in his disposition as the years went by and the affliction grew.

He always took a lively interest in the American Bar Association and its proceedings, and was instrumental in organizing the State Bar Association. It was largely through his influence that the codification of the laws of Montana was obtained.

NEW JERSEY.

S. MEREDITH DICKINSON.

S. Meredith Dickinson was born in Trenton, New Jersey, June 25, 1839, at "The Hermitage," famous as the country residence of General Philemon Dickinson, commander of the New Jersey Militia during the Revolution.

Mr. Dickinson's family settled in Virginia about 1650. He was the great-grandson of General Dickinson and great-grandnephew of John Dickinson, who drafted the original articles of confederation, and who was a member of the Continental Congress and governor of both Delaware and Pennsylvania. His parents were Philemon and Margaret Gobert Dickinson.

Mr. Dickinson studied law with the late Mercer Beasley, for many years Chief Justice of the New Jersey Supreme Court, and was admitted to the Bar in June, 1863, as an attorney, and in June, 1866, as a counselor at law.

On June 17, 1861, he was commissioned acting paymaster in the United States Navy with the rank of lieutenant, and served on the sloop of war "Dale," and was honorably dis-

charged October 31, 1862. In 1863 Mr. Dickinson was appointed private secretary to Governor Parker of New Jersey, and afterward held the offices of assistant adjutant-general of New Jersey and deputy comptroller of that state. In 1871 he was appointed chief clerk in the office of the Court of Chancery of New Jersey, a position which he held until his death on January 29, 1905.

It was in this office that he became widely known to the members of the Bar as an authority upon equity law and practice. He was the author of "Dickinson's Chancery Precedents" and "Dickinson's Probate Court Practice." He was one of the advisory masters of the Court of Chancery and heard many cases referred to him by the chancellor. In 1890 he was appointed chancery reporter and published the New Jersey Equity Reports, Vols. 46 to 66 inclusive. Notwithstanding the manifold duties of his office, Mr. Dickinson found time to attend to considerable private practice and numerous social duties. He was for many years president of the New Jersey Society of the Sons of the Revolution, a member of the Military Order of the Loyal Legion of the United States and Treasurer of the Trenton Battle Monument Association.

He married Garetta Moore, by whom he had five sons and one daughter, all of whom survive him.

Mr. Dickinson was a most kind and lovable man and, while rather retiring in disposition and devoted to a domestic life, had hosts of friends, who admired him for his high character and many sterling qualities.

LUTHER SPENCER GOBLE.

Luther Spencer Goble was born at Newark, New Jersey, on February 5, 1826, and died January 20, 1905, at Newfoundland, New Jersey, where he had gone in the hope of restoring his impaired health. He was a son of Dr. Jabez G. Goble, a prominent physician of Newark, president of the Medical Society of New Jersey and representative of the Mutual Life

Insurance Company of New York, who died February 7, 1859. He was a direct descendant of Ensign Simeon Goble of the Continental army.

In February, 1847, he was admitted to the Bar of New Jersey and entered upon the practice of his profession at Newark, and there continued a successful practitioner until 1859, when he succeeded his father as representative of the Mutual Life Insurance Company of New York, and in 1874, by reason of his wide fame in the insurance world, became a vice-president of the Mutual Benefit Life Insurance Company of Newark and its principal representative in the city of New York. Although afterwards he devoted himself exclusively to life insurance, he never lost his interest in the law nor in the lawyers. He was a public-spirited man, taking great interest in the progress and prosperity of his native city, and by his kindly and genial disposition made a large circle of friends.

He is survived by Eleanor C. Goble, his widow.

NEW YORK.

EPHRAIM ARNOLD JACOB.

Ephraim Arnold Jacob, who had held the office of Justice of the Court of Special Sessions of the city of New York, died on the 24th day of August, 1905. He was born in Philadelphia on the 14th day of January, 1845. His family moved shortly afterwards to New York and there Judge Jacob received his education, being graduated from the College of the city of New York in 1864 and from the Law School of Columbia College in 1866. As a member of the Bar, he represented important interests and was held in high regard. He edited several legal works: Jacob's Fisher's Digest of English Decisions, the Complete Digest and the later volumes of the reports of the New York Common Pleas Court.

In 1895 the mayor of the city of New York appointed him one of the justices of the newly created Court of Special

Sessions. He served in this position from 1895 to 1901, filling the office with distinction. On the expiration of his term of office he returned to the practice of the law. He earned the esteem of his brethren at the Bar and of the community at large by his professional attainments, his purity of character and his kindness of heart. On the Bench he combined strict impartiality with a disposition to temper justice with mercy. His lovable nature endeared him to all who enjoyed his acquaintance. He left a widow and two daughters.

EDWARD LYMAN SHORT.

Edward Lyman Short was born in Philadelphia in 1854 and died in New York in July, 1905.

Through his father, the late Professor Short of Columbia University, he was descended from Henry Short, who came to America from England in 1638, and from Henry Sewall, Mayor of Coventry, among whose descendants were five colonial judges, three of them chief justices. His first maternal ancestor of note was Richard Lyman, who came from High Ongar to Hartford in the Connecticut colony.

Mr. Short was graduated from Columbia College in 1875 with highest honors. He was prepared in the New York schools and at Phillips-Andover Academy. He studied law in the School of Law of Columbia College and at the same time in the offices of Knox & McLean and Foster & Thompson. Shortly after graduation from the law school in 1878, he was associated with Julien T. Davies as his assistant in railway and insurance litigations and in questions relating to the law of taxation. He was admitted a member of the law firm of Davies & Rapallo in 1884 and of the succeeding firms of Davies, Short & Townsend and Davies, Stone & Auerbach; of the latter firm he was a member at his death.

In January, 1905, he accepted the office of general solicitor of the Mutual Life Insurance Company, and thenceforth devoted his entire time to that department.

The pressure of his official duties as general solicitor pre-

vented his actual participation in the trial of cases. His services in the preparation of briefs and in consultations, and his opinions upon important questions relating particularly to the law of life insurance and the validity of corporate securities, were especially valued by his associates.

In the supervision of the many and various litigations of the Mutual Life Insurance Company, and of the multiplicity of details connected with the administration of his office, his ability as adviser and executive officer were ably demonstrated.

He was a deep student; conscientious and exhaustive in research; resourceful and indefatigable in preparation for argument and trial of cases.

He was the author of "The Law of Railway Bonds and Mortgages."

In his social relations he was genial and affable, highly esteemed by all who knew him and regarded by those who had opportunity to judge as a man of the highest standards of professional and personal conduct.

OHIO.

AARON BLACKFORD.

Aaron Blackford, one of the ablest and most prominent lawyers of northwestern Ohio, died at his home in Findlay, Ohio, on December 7, 1904.

Mr. Blackford was born in Columbiana County, Ohio, February 8, 1827, and when a lad of seven years of age he came to Findlay. After attending school at the Ohio Wesleyan University and the Cincinnati Law School, he began the practice of his profession at Findlay, Ohio, and for over fifty-two years "Dick Blackford," as he was familiarly known, was actively engaged in the practice of law.

Mr. Blackford's large mental grasp, his untiring energy, his quick repartee, his apropos anecdotes, his magnetic personality, his keen sense of honor and justice made him a law-

yer feared by the man whose cause was unjust or whose arguments were specious.

He was original and vigorous in thought, resourceful and untiring in fortifying himself against the unexpected maneuver. He had the legal mind which saw in the law the inherent justice of it, and was ever on the side of the man who was down. His magnificent defenses in several of the widely known cases in Ohio are often quoted.

Although devoting much of his time during his later years to the management of his farms and the enjoyment of the beauties of nature, he was actively engaged in his profession until within twenty-four hours of his death.

At the time of his death he was President of the Hancock County, Ohio, Bar Association, having held this office for five years.

He was a man of magnificent physical and intellectual endowments. He was a reader and thinker. He seemed familiar with all the schools of thought and philosophy. He sought hard after the truth and welcomed light from any source. He loved the forests and the fields with a religious devotion. To him there were "tongues in trees, books in running brooks, sermons in stones and good in everything."

But few men enjoyed life more thoroughly than he, yet he believed that

"——Death is sweet to us, beloved; though we may tell ye naught;
We may not tell it to the quick—the mystery of death;
Ye may not tell us, if ye would, the mystery of breath.

"The child, who enters life, comes not with knowledge or intent;
So those who enter death, must go as little children sent.
Nothing is known. But I believe that God is overhead;
And, as life is to the living, so death is to the dead."

JAMES HENRY COLLINS.

James Henry Collins died at Columbus, Ohio, January 9, 1904. He was born June 18, 1835, near Cumberland, Allegany County, Maryland. In 1844 he removed with his parents to Ohio and settled near Barnesville, Belmont County, where Mr. Collins's early life was spent on his father's farm.

While teaching and attending school he studied law and was admitted to the Bar by the Supreme Court April 16, 1857. He first undertook the practice of his profession at Cambridge, Ohio, where he remained, however, for a brief period, thence returning to Barnesville, where he remained until 1880, whence he moved to Columbus and there lived until his death.

Mr. Collins was known to the Bar of Ohio as a specialist. His practice, after locating in Columbus, with few exceptions, was confined to his employment as attorney for the Baltimore and Ohio Railroad Company. His removal to Columbus was occasioned by this employment and to enable him the better to direct all the legal matters of the company in the territory affected by its main line and all its branches from the Ohio River at Bellaire to Chicago, and over which he was given control. Previous to his location in Columbus, he had been the local attorney for the Baltimore and Ohio Railroad at Barnesville and for Belmont County, and had won the recognition and confidence of the management of the company by his successful attention to and conduct of the business of the company in these localities.

Much of his practice was in the federal courts. He became an acknowledged authority on federal practice, and was for years prior to his death the lecturer on this subject to the law classes of the Ohio State University.

Of Mr. Collins it can well be said he was an all-round railroad lawyer. He might be found one day trying a case before a justice of the peace, or be in the probate court on a question of eminent domain and the next holding a brief in the state or federal Supreme Court. He was a tireless worker and to be found always on duty where the interests of his client were at stake. He digested and preserved all the decisions on railroad law which he regarded as important, and in his later years he seemed to know all the decided law pertaining to his special field of effort. Thus well equipped, he had great facility in the discharge of work and in the preparation of pleadings and briefs.

He was not an orator, but he seemed to be always prepared and was logical and forceful in speech. When he believed he was right on any principle involved in his cases, he never yielded until the court of last resort decided. It was in such final vindications that his life's work shone most resplendently.

He was of massive build physically and mentally. His preparatory education was meagre and such only as was afforded by the public schools supplemented by independent study. He kept himself well informed on current events throughout his life, and was an entertaining conversationalist.

In the later years of his life he became the owner of a farm near Barnesville, where he was accustomed to spend with his family a portion of the time each year.

JAMES MILTON JONES.

James Milton Jones, who died July 11, 1904, was born in Herefordshire, England, near the ancient Roman walled city of Hay, and almost in the shadow of the battlements of Clifford Castle famed for its romantic legends of Henry II and fair Rosamond.

He was the third son of Thomas and Mary Jones, who migrated to the United States and settled in Cleveland in the spring of 1831. James M. Jones was then about four years of age. The family consisted of six sons and seven daughters.

Judge Jones was educated in the public and high schools of the city of Cleveland, and received a classical and English education in the private school of H. D. Beattie. After the requisite professional preparation and study, he was admitted to the Bar in 1855.

From the very beginning his success was phenomenal. He attained not only great distinction as an advocate and as a lawyer, but also became noted for his judicial ability. He was twelve years on the Superior Court and the Common Pleas Bench in the County of Cuyahoga, Ohio. He first attracted public attention in the famous Townsend-McHenry extradition case, in which he was leading counsel. His skill in the cross-

examination of witnesses and the forcible style of his advocacy marked him immediately as one of the foremost lawyers of the Bar of Ohio.

During his whole career as attorney he was counsel for the Western Union Telegraph Company, except during the period that he was on the Common Pleas and Superior Court Bench. During his last judicial term on the Common Pleas Bench there came before him many important cases, some of them involving millions and requiring the elucidation and administration of municipal, commercial and railroad corporation law.

As a lawyer and an advocate, he was noted for the skill with which his cases were prepared and the vigorous and convincing manner in which they were presented to the court and jury. In deciding questions while upon the Bench, he was clear, positive and fearless.

He was a many-sided man. He was thoroughly grounded in the law, and had a full, generous and wide knowledge of literature, history and science. He was an eloquent man in the sense of convincing those who heard him that he believed in the justice and righteousness of his cause. His oratory was *sui generis:* "Words rolled from his tongue like mad waters rushing over rocky boulders. His sentences, like a Grecian phalanx, fairly bristled with steely points. His phrases burned, scorched and blistered as they were hurled at the adversary in a dashing, fiery stream."

In his office or at his home, or at the home of his friends, or during a lull in the tedium and routine of court work, the lawyer and jurist disappeared and we came into contact with a most charming, lovable and companionable man. As a conversationalist he was entertaining. His sparkling, scintillating wit excited genuine merriment and hearty laughter, but never left a sting.

He was a man who would have graced and honored any position in life. In all things he was a robust, vigorous personality; a man of profound learning, of great integrity, of few defects and of many virtues.

TEXAS.

JAMES MUSCOE SEMPLE.

James Muscoe Semple was born in Liberty, Missouri, June 12, 1875, and died at Sherman, Texas, December 9, 1905.

In his death at this early age the legal profession lost a very brilliant member, and one whose life and achievement gave promise that he would merit and receive the richest rewards of his profession. From his earliest childhood he displayed the greatest mental activity. When he was but sixteen years of age he was graduated from Marshall Jewell College, Liberty, Missouri, at the head of his class. Immediately after graduation he became an instructor in his alma mater in Latin, Greek, English and German, and shortly thereafter became one of the professors in Pierce City College. While pursuing his duties as a teacher he studied law and was admitted to the Bar before he was twenty-one years of age. Upon his admission he removed to Sherman, Texas, and entered the law firm of Wolfe & Hare, the firm becoming Wolfe, Hare & Semple. In a little while he took position in the very front rank of his profession. Though with a mind unusually quick and comprehensive, he did not rely on his natural ability, but devoted himself closely to study. His power of comprehending a legal proposition and analyzing and explaining it, so that another would comprehend it, was very great. His capacity for understanding the facts of a case, of estimating them at their true worth and presenting them to a jury in their most favorable aspect, made him a strong and successful advocate. His industry was unflagging.

He was a scholar of wide reading in general literature. His facility of expression with his pen made him an agreeable correspondent, while his conversation made him a charming fireside companion. He was the prized associate of men of talent and education.

In early life Mr. Semple joined the Baptist Church, and at the time of his death held the office of deacon in it and was

prominent in all church work. He was respected and loved as a citizen and a Christian.

In February, 1900, he married Miss Mollie Eubank, of Sherman, Texas. The marriage was one of great congeniality and happiness.

There are very few lawyers who, at so early an age as that at which Mr. Semple was called from a busy life, have achieved so much and before whom stretched so bright a future. He will long be remembered by his fellow members of the Texas Bar as a very able and brilliant man, who in a short life had accomplished much and for whom the future held much in store.

SUMMARY OF PROCEEDINGS

OF

STATE BAR ASSOCIATIONS.

ALABAMA STATE BAR ASSOCIATION.

The twenty-eighth annual meeting was held at Montgomery, on June 30 and July 1, 1905, and was the most successful meeting in the history of the Association. The address of the President, Thomas R. Roulhac, of Sheffield, was an excellent review of the advance of civilization and prosperity throughout the world during the current year, and contained a summary of the most important legislation by Congress and state legislatures, and also decisions of the courts, both state and federal, which had occurred since the last meeting of the Association.

The annual address was delivered by John W. Judd, of Nashville, Tennessee, on "The Fourteenth Amendment—Its History and Evolution."

The Association passed a resolution favoring the establishment of a Juvenile Court and authorized the Committee on Legislation to prepare the necessary act and to take appropriate steps to secure its passage at the next meeting of the legislature.

The report of the Central Council was made by the chairman, W. W. Callahan and called attention to the work done by the Council during the past year in considering complaints against attorneys in the state. No prosecution for malpractice was made against any attorney, although a number of trivial complaints were made. The Central Council suggested that if the *nisi prius* courts would require at the convening of each regular term a public reading of the Code of Ethics of the Association, the duties of attorneys would be better understood by themselves, their clients and the public, and would serve to

elevate and dignify not only the law, but the profession as well, before the bar of public opinion.

The report of the Committee on Legislation was made by the chairman, Alex. T. London, of Birmingham. The committee suggested that if the State Bar Association wished to affect legislation, as it should do, it should get some lawyers elected to the legislature who would work for general laws and not be loaded up with local bills, as is usually the case.

Under the caption of "Has the Citizen of the United States, in the Custody of the States' Officers, upon Accusation of Crime against Its Laws, any Immunity or Right which May be Protected by the United States against Mob Violence?" Judge Thomas G. Jones read a paper asserting that the citizen has that right.

An interesting and well prepared paper read before the meeting was that of W. L. Chambers, on "The Ministry of the Lawyer." The history of the world from the beginning up to the present day was shown to have been directed in the greatest extent by the lawyer and the honesty of his purpose was shown along the growth of civilization.

Lawrence Cooper, of Huntsville, a former President of the Association, read a thoughtful and instructive paper on "Our Railroad Commission as a Political Factor." He discussed at length the true position of this commission.

"Alabama's New Corporation Law" was the subject of an interesting paper by Armstead Brown, of Montgomery, and was treated in excellent style.

The suffrage rights of states was ably discussed by Emmet O'Neal, of Florence, in a paper entitled "The Power of Congress to Reduce Representation in the House of Representatives and in the Electoral College."

The report of the Committee on Correspondence was read by F. G. Bromberg, chairman of the committee, and urged the necessity of a permanent commission in this state on uniformity of legislation.

The Association complimented its Secretary, Alexander

Troy, of Montgomery, after twenty-six years of uninterrupted service in that position by presenting him with a handsome silver bowl; sending him at the expense of the Association to Narragansett Pier to attend the meeting of the American Bar Association as a delegate from this Association, and by increasing his salary as Secretary from three hundred dollars to five hundred dollars a year.

Bar Association of Arizona.

No report has been received.

Bar Association of Arkansas.

The eighth annual meeting was held at Hot Springs, Arkansas, on June 1 and 2, 1905.

The President, Judge Allen Hughes, of Jonesboro, read the annual address, entitled "Condensation of the Law."

Henry D. Ashley, of Kansas City, Missouri, as guest of the Association, delivered an address upon "The Effect on American Jurisprudence of the Doctrine of Judicial Precedent."

Papers were read by Ashley Cockrill, of Little Rock, on "The Case of Northern Assurance Company *vs.* Grand View Building Association, 183 U. S. Reports." By Judge Jacob Trieber, of Little Rock, on "The Jurisdiction of Federal Courts in Actions in which Corporations are Parties."

A committee was appointed to devise some plan whereby an amendment to the constitution of Arkansas may be submitted to the people, and such necessary acts presented as will enable the legislature to appoint a commission for the purpose of revising and codifying all our laws and adopting the same when revised.

The next meeting of the Association will be held in Texarkana, Arkansas, in joint meeting with the Texas Bar Association.

California State Bar Association.

No report has been received.

Colorado Bar Association.

The eighth annual meeting was held at Colorado Springs, on July 6 and 7, 1905.

The addresses of President Luther M. Goddard and Vice-President John A. Ewing discussed "Recent Legislation" in Colorado.

The annual address was delivered by George R. Peck, of Chicago, Illinois, and treated of "Governmental Regulation of Railway Rates."

The report of the Grievance Committee dealing with the committee's recommendation that contempt proceedings be instituted against Thomas M. Patterson, of Denver, excited much discussion and met with an approving vote of the Association. An address on "Inheritance Taxes" also caused considerable discussion.

The Committee on Law Reform recommended several bills for consideration by the state legislature, several of which had for their object the reduction of the number of appeals to the Supreme Court, that that body might be enabled to dispose of accumulated business and be able to dispose of appeals more promptly. Another bill was for the regulation of temporary transfer of district judges from one district to another. Another provided for appeals from orders granting or continuing injunctions or appointing receivers. The committee reported that it had secured the passage, by the last legislature, of a bill making anyone guilty of contempt who held himself out as an attorney after having been disbarred or before procuring a license to practice.

Papers were also read as follows: "Inheritance Taxes," by James W. McCreery, of Greeley; "Compulsory Arbitration," by James H. Pershing, of Denver, and "Government by Injunction," by Thomas H. Devine, of Pueblo.

State Bar Association of Connecticut.

There has been no meeting of this Association in recent years.

Delaware State Bar Association.

No report has been received.

Bar Association of the District of Columbia.

This Association is primarily a library association, and holds no meetings at which addresses are made or papers read.

Georgia Bar Association.

The twenty-second annual meeting was held at Warm Springs, Georgia, on July 5, 6 and 7, 1905. President A. P. Persons, of Talbotton, in his address, entitled "Some Kaleidoscopic Generalities," treated of a number of interesting legal topics.

The annual address was delivered by James C. McReynolds, of Nashville, Tennessee, Assistant United States Attorney-General, upon the subject "Somewhat Concerning Aliens."

The Committee on Legislation reported that several bills of local interest, which had been recommended by the Association at the last session, had been enacted by the General Assembly. At the suggestion of this committee, a special committee was appointed to co-operate with the Georgia Bankers' Association, in endeavoring to secure the passage of the Uniform Negotiable Instruments Act, which the Association has been bringing to the attention of the legislature for several years past.

The Committee on Judicial Administration and Remedial Procedure submitted an elaborate report, suggesting a number of changes in remedial procedure. These, with some amendments, were all adopted by the Association, and referred to the Committee on Legislation, whose duty it is to present the matters to the General Assembly.

Reports were submitted by the Committees on Jurisprudence and Law Reform, on Interstate Law, on Grievances, on Federal Legislation and on Legal Ethics.

Memorials were read on the lives of Washington Dessau and A. C. Turner, of Macon, and W. B. Butts, of Columbus.

The venerable and beloved ex-Chief Justice, Logan E. Bleckley, delivered an address which he styled "Some Revised Thoughts of an Old Man—an Old Lawyer." A humorous paper was read by Eugene Ray, of Columbus, on the subject, "A Justice Court, a Justice Court Lawyer and a Justice Court Law."

The Treasurer's report showed the Association to be in better financial condition than ever before, with all bills paid and a snug balance in the treasury.

A large number of new members were elected, and steps were taken to increase the membership of the Association during the coming year.

The Executive Committee reported that the Association library of Bar Association publications, which the secretaries have been collecting for a number of years, had outgrown its quarters in the State Library, and that additional space had been provided for this valuable collection and that the pamphlets and unbound reports had been neatly and substantially bound. The report also showed that the Association had enjoyed a year of exceptional prosperity.

Bar Association of the Hawaiian Islands.

The seventh annual meeting for election of officers and other business was held on May 31, 1905. The annual dinner was held on the evening of June 30, 1905, at which A. G. M. Robertson, President of the Association presided and speeches were made on the following subjects: "The President of the United States," by Henry E. Highton; "The Bench," by Henry Holmes; "The Unsuccessful Bidder in Contracts for Public Works," by Charles F. Clemons; "The Prosecution," by Lorrin Andrews, Attorney-General of the Territory of Hawaii; "The Law of Libel," by Robert W. Breckons, United States District Attorney for the Territory of Hawaii; "Opening and Closing," by Frank E. Thompson. Speeches were also made by Mr. Justice Deniston, of New Zealand; W. P. Hepburn, Congressman from Iowa; Mr. Lott,

of the Department of the Attorney-General of the United States, and W. O. Smith, late President of the Hawaiian Bar Association. The remarks of Mr. Justice Deniston were especially appreciated and were devoted mainly to an expression of the acknowledgment of the Bench and Bar of the British Colonies to the American decisions in questions arising under conditions for which the law reports of the mother country furnished no precedents. At the close of the dinner the annual address was presented by Sanford B. Dole, Judge of the United States District Court for the Territory of Hawaii, on the subject of "Some Questions of Practice."

Illinois State Bar Association.

The twenty-ninth annual meeting of this Association was held at the Chicago Beach Hotel, Chicago, May 25 and 26, 1905.

In accordance with the constitution of the Association, the President's address, by Stephen S. Gregory, of Chicago, was a review of the noteworthy changes in the statute law of the state.

Aside from the changes in the statute law of the state, the President's address also discusses the failure of the legislature to enact certain recommendations of a commission which was created a few years ago to revise the laws of Illinois in relation to the practice and procedure in courts and the statutes pertaining to the intermediate appellate courts of Illinois and the construction of them given by the courts, particularly in reference to the power to reverse judgments on the ground that the verdict is against the weight of the evidence, and the issuance of injunctions in so-called labor disputes.

The annual address was delivered by Alton B. Parker, of New York, the subject being "The Lawyer in Public Affairs," tracing the influence of the Bar in public affairs through the Revolutionary and Constitutional periods. The fact was brought out that for the most part the judges of the courts of the United States and of the states have usually been strong

partisans before their elevation to the Bench, and that almost uniformly the partisan has disappeared in the judge. The achievements of members of the Bar in executive office were traced and the value of legal training as a preparation for public affairs is said to be such that:

"So careful has been the preparation of men for the Bar, so effective has been their training and the discipline after they have entered upon the practice, so keen and intelligent has been their interest in public questions and so high their character that if, upon a given day, the President of the United States should receive the resignation of every judge of all the federal courts, of every member of his cabinet, and all other officials the performance of whose duties required a legal training, he could fill their places with full regard to the interests of the public service, and with popular acceptance, without drawing a single appointee from any one of the great centers of population."

The obligations of the Bar in reference to the sanctity of the ballot, for the just and vigorous administration of the law, for the preservation of popular rights and the maintenance of the lines of division between the executive, legislative and judicial branches of the government were urged upon them.

John B. Winslow, of Madison, Wisconsin, delivered an address, entitled "The Booth Case—A Chapter from the Judicial History of Wisconsin." This is an account in detail of proceedings that led to, and followed the arrest of Sherman M. Booth, of Milwaukee, who was charged with a violation of the "Fugitive Slave Law." An extreme position in the assertion of "States Rights" was taken by the people of Wisconsin in the course of which a resolution was adopted at a public meeting in Racine declaring that "inasmuch as the Senate of the United States has repealed all compromises heretofore adopted by Congress, we, as citizens of Wisconsin, are justified in declaring, and do hereby declare, the slave-catching law of 1850 disgraceful and also repealed."

The "Fugitive Slave Law" was declared unconstitutional by the Supreme Court of Wisconsin, and for several years that

court held to the position that the Supreme Court of the United States was without power to review its judgment.

E. P. Williams, of Galesburg, delivered a memorial of Charles B. Lawrence, who was Chief Justice of the Supreme Court of Illinois from 1864 to 1873.

E. B. McCagg, of Chicago, delivered a memorial of John N. Jewett, for many years a leading constitutional lawyer of the state.

Trial procedure in Illinois was a subject of general consideration by the Association. It was opened by George F. McNulty, of East St. Louis, in an address, the principal topics of which were the declaration and reply; the jurors, their qualification and manner of selection; the manner of administering oaths; instructions to jurors.

A bill introduced into the General Assembly of 1905, known as House Bill No. 31, was the subject of general consideration and discussion by members of the Association. This bill embodied many of the recommendations of the Practice Commission above referred to. It had failed of passage in the General Assembly.

Reports of the following committees were read and considered:

On Law Reform, having special reference to the law of naturalization and also to the preservation of the public peace during strikes.

On Legal Education, discussing the preliminary education required as a condition of entrance to the Bar and the "case method" of teaching.

On Judicial Administration, discussing the method pursued by the Supreme Court of Illinois in the hearing and decision of causes.

On the Negotiable Instruments Law, favoring the adoption of the so-called Negotiable Instruments Law in Illinois and showing the number of states in which it has been adopted.

The usual reception and banquet closed the session.

State Bar Association of Indiana.

The ninth annual meeting was held in the Federal Building, at Indianapolis, July 6 and 7, 1905.

The President's address was delivered by Addison C. Harris, of Indianapolis, at one time ambassador to Austria-Hungary, and dealt with the subject of "Procedure Abroad and at Home," discussing the methods of procedure on the European continent as compared with procedure in England and America.

The annual address was delivered by John F. Simmons, of Boston, Massachusetts, upon "Territorial Expansion of the Common Law Ideal."

The report of the Committee on Jurisprudence and Law Reform recommended a codification of the laws in relation to private corporations and also a revision of laws concerning taxation and public schools and the benevolent, penal and reformatory institutions. It heartily endorsed the work of the American Bar Association in the direction of uniformity of laws and recommended that a report be required from the Committee on Law Reform at the next meeting, concerning the propriety of amending the laws so as to make parties who testify in their own behalf give their testimony in advance of any other evidence in their behalf, and requiring instructions to be given before argument of counsel, and permitting wills to be probated during the lifetime of the testator. The report was adopted.

Special committees were appointed, one to conduct a campaign in favor of a pending constitutional amendment requiring examination for admission to the Bar and another for the dedication of the new federal court house at Indianapolis.

Twenty-two new members were elected.

Papers were read by Lucius C. Embree, of Princeton, on "Cases and Case Lawyers," also by Thomas R. Marshall, of Columbia City, on the "Lawyer's Conscience," and by

Arthur W. Brady, of Anderson, on "Some Phases of Historical Jurisprudence."

Iowa State Bar Association.

The eleventh annual session was held at Des Moines, July 13 and 14, 1905.

A. E. Swisher, President of the Association, delivered an address on "An International Court."

The Committee on Law Reform recommended the adoption of a constitutional amendment providing for the abolition of the grand jury and for placing parties upon trial upon information. The recommendation failed of adoption after an earnest and prolonged discussion.

The same committee submitted, without recommendation, for consideration and discussion, the following propositions:

1. "Shall the law now exempting wages from execution be amended so as to allow a certain per cent. of the wages to be taken in payment for necessities supplied the family?"

2. "Ought the court to have the power to limit the argument of counsel to the jury subject to review for abuse of discretion?"

3. "Ought the court to have the power to advise the jury as to the credibility and weight of testimony, as is done by the Circuit and District Judges in the United States Courts?"

4. "Would provision for the appointment by the court of experts on the application of the party to the suit, and to exclude other evidence, be advisable and constitutional?"

After discussion, all of the above propositions were rejected.

The annual address was delivered by Justice Emlin McClain, on the subject, "Limitations on Federal Power in the Government of Territories."

The following papers were read: By W. H. McHenry, on "The Reformation of Criminal Practice"; by Charles Noble Gregory, on "The American Lawyers and their Training"; by R. M. Haines, on "Statistical Data from Official Reports"; by E. E. McElroy, on "Double Taxation: Some Remedies

Attempted"; by Frank I. Herriott, on "Are Moneys and Credits Appropriate Objects of Taxation?"

Bar Association of the State of Kansas.

The twenty-second annual meeting was held at Topeka, in the Supreme Court room, January 31 and February 1, 1905. There were present about two hundred of the leading lawyers of the state. Twenty-four new members were elected at this meeting. The meeting was one of the best ever held despite the fact that nothing of particular interest was undertaken or accomplished.

The President's address was delivered by the then Justice of the Supreme Court, William R. Smith, on the subject, "Politics and the Judiciary." It was one of the best addresses ever delivered before the Association and very exhaustive as to the situation in other states. It is a valuable addition to the literature on this interesting subject.

The annual address was delivered by Sanford B. Ladd, of Kansas City, Missouri. His subject was "The Fourteenth Amendment." It was delivered the evening of the first day of the meeting, and the attendance was more than ordinarily large.

A special committee appointed at the last preceding meeting of the Association reported a new bill, "Regulating Admission to Practice Law," which was indorsed by the Association, was subsequently passed by the legislature and became a law.

The Association also endorsed the action of the American Bar Association relating to a uniform law upon negotiable paper. This also passed the legislature, owing largely to the support given it by the Association.

No proposed legislation was acted upon at this time, though the Committee on Amendments to Laws made some important recommendations which may be acted upon at the meeting in 1906.

In addition to those mentioned, the following papers were read: By Howel Jones, on "Samuel A. Kingman"; by

Fred. H. Wood, on "Alien Land Laws"; by Stephen H. Allen, on "English Courts and Procedure"; by James A. Brady, representing the senior class of the State University Law School, on "How Does Suicide Affect Legal Relations?" by W. D. Atkinson, on "Some Needed Legislation."

The meeting closed with a very enjoyable banquet the night of February 1st, at the Throop Hotel in Topeka.

Kentucky State Bar Association.

The fourth annual meeting was a well attended and enthusiastic one. It was held in the city of Covington, on June 22 and 23, 1905. The address of welcome was delivered by Circuit Judge W. McD. Shaw. The President, John S. Kelley, of Bardstown, then delivered his address dealing with the Association's progress during the year and calling attention to the coming meeting of the legislature and the necessity for having in proper form the bills which the Association proposed supporting. He particularly called attention to needed amendments to the election laws and the jury bill which was passed by the last General Assembly and vetoed by the governor.

The annual address was delivered by Joseph W. Folk, Governor of Missouri, on the subject "The Reign of Law." He presented the side of reform in government in a clear and masterly fashion, making vigorous protest against corruption and corruptionists, whether high or low.

Other addresses were delivered by Chief Justice J. P. Hobson, of the Kentucky Court of Appeals, on the subject of "Appellate Proceedings," which was most interesting to the Kentucky Bar.

Henry L. Stone, of Louisville, delivered a most exhaustive paper on "Taxation."

Watt Parker, Circuit Judge from Fayette Circuit, read a paper on "The Trial Judge," which was enthusiastically received.

Reports from the various committees proved that the Association maintained its activity in all directions.

Another remarkable increase in membership was shown, making a total membership of five hundred and fourteen, or one of the largest state associations in the country.

The Committee on Law Reform was instructed to present several bills to the 1906 session of the legislature and urge their adoption; among others are a new jury bill, a bill permitting husband and wife to testify for and against one another in certain cases, and a bill aimed at the shyster and ambulance chaser.

The meeting closed with a banquet held on the night of June 23d.

Louisiana Bar Association.

The Association met on May 6, 1905, in the rooms of the Supreme Court of the State, and was graced by its Justices and the Judges of the District Courts of New Orleans. It was the fifty-eighth annual meeting.

The President, Edwin T. Merrick, delivered his address, treating mainly on the topic of improvement in the law, as well as mode of procedure, looking to the disbarment of members of the profession shown to have been guilty of misconduct detrimental thereto.

The annual address was delivered by E. H. Randolph, of Shreveport, on the subject "The Civil Law."

Walter S. Logan, of New York, then addressed the meeting, taking for his subject "Lawyers and the Trusts."

Article VII of the charter, relative to making and trial of charges against members of the Bar, was amended and imposes on the Executive Committee the duty of investigating charges and of selecting a court of five members of the Association to try charges.

Maine State Bar Association.

The fourteenth annual meeting was held at the Senate Chamber, in Augusta, on February 15, 1905.

The routine business, including report of Treasurer, Secretary and Special Committees, was carried through as usual.

The annual address was delivered by Lucilius A. Emery, Justice of the Supreme Judicial Court of Maine, the subject being "Medical Expert Evidence."

Several matters of local interest were considered and officers elected for the ensuing year.

Maryland State Bar Association.

The tenth annual meeting was held at Hagerstown on June 28, 29 and 30, 1905.

The President's address was delivered by James A. C. Bond, of Westminster, who spoke on the responsibilities of the lawyer. Memorials were read on members who had died during the preceding year.

The Committee on Judicial Administration and Legal Reform reported the continuation by the governor of the commission to revise the corporation law, and further reported the passing of an act for the appointing of a commission to revise the criminal statutes. The committee recommended that the legal age of unmarried women shall be the same as to their real and personal property; urged the abolition of the use of seals, and suggested changes in the judicial system of the state.

Memorials on John Kissig Cowan were delivered by Judson Harmon, of Ohio, and William L. Marbury, of Maryland. Papers were read as follows: By J. Upshur Dennis, on "Some Personal Recollections of a Quartet of the Baltimore Bar"; by William L. Marbury, on "The High Court of Chancery and the Chancellors of Maryland."

Michigan State Bar Association.

The sixteenth annual meeting was held June 28 and 29, 1905, at Bay City, Michigan.

The address of the President, Chester L. Collins, of Bay City, treated of the subject, "The Common Law and the Statute Law in Michigan."

The report of the Committee on Grievances reviewed its work for the preceding year, and the same was accepted and filed.

The Committee on Legislation and Law Reform reported the passage, by the legislature, and the approval, by the governor, of the uniform Negotiable Instruments Law; reported progress in the matter of enacting laws relative to placing justices of the peace upon salaries; recommended the amendment of court rules so that the minimum time allowed for arguments in circuit courts shall be one hour, and reviewed the laws enacted by the 1905 legislature. The report was adopted as read.

The Association adopted a resolution calling for the appointment of a committee to investigate and report a practical method of reducing the number of legislative enactments of a special or local nature.

The special committee to whom was referred the matter of the erection of a monument or other suitable memorial over the grave of Judge Isaac P. Christiancy, reported their inability to secure the right to place such a monument or memorial, and recommended that the Association secure the privilege of placing a bust of Judge Christiancy in the library of the state capitol at Lansing. The report was adopted.

The report of the Memorial Committee, containing memorials of the members of the Association who had died during the preceding year, was read, accepted and filed.

Nelson Sharpe read a paper on the subject, "Directing a Verdict," which paper was referred, by vote of the Association, to the incoming Committee on Legislation and Law Reform.

The special Committee on Medical Expert Testimony reported the passage of a bill, by the 1905 legislature, embodying some needed reforms in the matter of expert testimony. (Michigan is said to be the first state in the union to pass legislation of this kind.)

A complimentary banquet was tendered the members of the Association by the Bay County Bar Association.

MINNESOTA STATE BAR ASSOCIATION.

The fifth annual meeting since the reorganization of the Association was held in the hall of representatives at the old capitol building in the city of St. Paul on April 4, 1905.

The address of the President, Edward C. Stringer, of St. Paul, disclosed a satisfactory progress on the part of the Association during the year just closed and graphically pointed out the power for good such a body can wield; congratulated the state upon the integrity of her Bench and Bar, and suggested to the meeting the advisability of inviting the American Bar Association to meet in Minnesota in 1906.

The annual address was delivered by John F. Phillips, of the Federal Bench of Missouri, his subject being "Law and the Lawyers." The address is published in the proceedings of the Association and is striking for its wit, its wisdom and its timeliness.

The Ethics Committee reported its proceedings for the year, with a total of five complaints acted upon, and recommended an amendment to the constitution of the Association permitting the committee to proceed at once against alleged offending members of the Bar instead of reporting first to the board of governors. The committee's report was adopted and the constitution was so amended.

The Library Committee's report described the accommodations provided for the state library in the new capitol building, made numerous recommendations looking to betterment of conditions affecting the library, and asked support for two measures to this end, prepared by the committee and now pending in the legislature.

The Committee on Legal Biography submitted memorials of eight members of the Bar of the state who had died during the past year.

The following resolution was unanimously adopted:

Resolved, That this Association extend to the American Bar Association a cordial invitation to hold its annual meeting in 1906 in the twin cities, as the guests of the Bar of this

state, and that a committee be appointed by the President to present the invitation at the next meeting of the American Bar Association.

Missouri Bar Association.

No report has been received.

The Montana Bar Association.

The twentieth annual meeting was held in the federal court room, at Helena, January 10, 1905. There was an address by the retiring President, ex-Governor Preston H. Leslie. The address was an appeal to the members of the Bar to uphold the dignity and honor of the profession and was spoken from an experience of over sixty years at the Bar, and was impressive in bringing into the commercial atmosphere that has invaded the profession of today the high standard of ethics of the Bar fifty years ago.

A committee of five, consisting of William Scallon, Guy W. Stapleton, J. A. Walsh, C. W. Pomeroy and J. U. Sanders, was appointed to secure a suitable oil picture of Judge Hiram Knowles, to be presented by the Association to the United States Courts of this district.

An able discussion was raised by the introduction of a resolution by John M. Kirk, providing for the election of judges at the time of the spring elections.

On July 8, 1905, a special meeting of the Association was held to take action on the death of Colonel Wilbur F. Sanders. Appropriate committees were appointed to prepare resolutions upon the death of Colonel Sanders and also upon the death of E. W. Toole, to be presented to the Supreme and other courts. A committee was appointed to organize in connection with other associations, a Sanders Memorial Association for the purpose of securing a suitable memorial to Colonel Wilbur F. Sanders.

On October 7, 1905, the Executive Committee of the Association waited upon the Supreme Court of the state to

call attention to the death of Judge Decius S. Wade, for sixteen years the Chief Justice of the Territory of Montana, which appointed a committee consisting of all the ex-judges of the court to prepare suitable resolutions. The resolutions were subsequently presented.

Nebraska State Bar Association.

The sixth annual meeting was held at Omaha, on November 22, 1905.

The President's address was delivered by Ralph W. Breckenridge, of Omaha. His subject was "Law and Its Administration in Nebraska." The address dealt with local conditions affecting the administration of justice in the state.

The annual address was delivered by George R. Peck, President of the American Bar Association, upon the subject, "Temperament in Its Relation to Character, Laws and Institutions."

Other addresses were "The Problem of Uniform Divorce Law in the United States," by Dr. George E. Howard, and "The Spirit of the Common Law," by Roscoe Pound.

Bar Association of the State of New Hampshire.

No report has been received.

New Jersey State Bar Association.

The seventh annual meeting was held at Atlantic City, on June 16 and 17, 1905.

The President's address was delivered by Alan H. Strong, and dealt with the power of the state legislature to limit the hours of labor, viewed in the light of the recent decision by the Supreme Court of the United States, in Lochner *vs.* People of the State of New York.

J. Hampton Dougherty, of the New York Bar, delivered an address on "The Law of the Constitution in Relation to the Election of President."

Reports were submitted.

1. By the Special Committee appointed under resolutions of the Association passed at the annual meeting in June, 1904, to promote legislation for an official inquiry concerning methods of improving the judicature.

2. By the Committee on Legislation.

3. By the Committee on Judicial Sales. This report was duly adopted.

New Mexico Bar Association.

No report has been received.

New York State Bar Association.

The twenty-eighth annual meeting was held in Albany on January 17 and 18, 1905, and was presided over by Richard L. Hand, President of the Association.

The subject of President Hand's address was "Professional Responsibility," and urged the development of a stronger sense of privilege and duty in members of the legal profession as well as a steady devotion to the maintenance of its standards.

The report of the Committee on Law Reform recommended the passage of a resolution approving the concurrent resolution of the senate and assembly of 1903, amending the judiciary article of the constitution so as to authorize the legislature to increase the number of justices of the Supreme Court upon the basis of population; also a resolution opposing the adoption of the concurrent resolution of the legislature of 1904 amending the constitution so as to provide for the election of additional Supreme Court justices in the several districts, and which further provides for the increase of the number of judges of the Court of Appeals at the option of the legislature, and authorizes that body to determine whether the Court of Appeals shall sit in one or two divisions; also a resolution that Charles Andrews, Alton B. Parker, Francis M. Finch, Judson S. Landon and Celora E. Martin, ex-judges of the Court of Appeals, be requested to act as an auxiliary committee of this Association for the purpose of carrying out these resolutions, and that the

Committee on Law Reform be authorized to appoint a subcommittee to take steps to procure joint action on the part of the Association of the Bar of the City of New York and other Bar Associations of the state to forward the purposes of the above resolutions.

The Association adopted a resolution favoring the publication of the Appellate Division reports upon the same basis and in the same manner as that in which the Court of Appeals reports are now published. It approved an act providing for a meeting of the justices of the appellate divisions on the third Monday in June, 1905, for the purpose of appointing a Supreme Court reporter, at a salary of five thousand dollars per annum, to hold office for five years, whose duty it shall be to report every cause determined in the appellate divisions of the Supreme Court which the presiding justice of the appellate division wherein such cause is decided directs, or which the public interest, in his judgment, requires him to report. The Supreme Court reports are now published under a law which permits the reporter to retain a copyright upon the head notes, indexes and notes generally on the syllabus, and under it he is permitted to enter into a contract with a publishing firm from which he derives a compensation of $2000 per volume, and inasmuch as there were ten volumes published last year, and eleven volumes published before, the expense to the legal profession was very much greater than for the reports of the Court of Appeals.

The Association actively pressed the passage of this act and it became a law. A reporter was appointed and the Supreme Court reports are now delivered to the profession at a very material reduction in price.

A committee was appointed consisting of one member of the Association from each of the eight judicial districts to consider the condition of litigation in the various districts, the designation of justices to sit in departments other than the departments in which they were elected, and the inequality of judicial compensation in various parts of the state, making

such recommendations to the next meeting of the Association as they may be advised.

The annual address was delivered by William Lindsay, of New York, on the subject, "The Relations of the General Government with the States Composing the Federal Union."

Papers were read as follows: "The Constitutional Powers of the President," by Charles A. Gardiner, of New York; "Arrest and Imprisonment on Civil Process," by Charles E. Hughes, of New York; "Martin Van Buren, the Lawyer," by Adrian H. Joline, of New York; "The Water Supply of the City of New York, and Some Legal Complications Involved," by R. Percy Chittenden, of Brooklyn; "The Influence of the Bar in the Selection of Judges throughout the United States," by Simon Fleischmann, of Buffalo.

On Wednesday evening, January 18, the annual banquet of the Association was given at the Ten Eyck Hotel. Among the guests were the judges of the Court of Appeals, many Supreme Court justices, state officers and representatives of Bar Associations. The toast list was as follows: "The State of New York," by Lieutenant Governor Bruce; "The State of Kentucky," by William Lindsay; "The Court of Appeals," by Chief Judge Cullen; "Lawyers," by Job E. Hedges; "The Law and the Prophets," by Rt. Rev. Richard H. Nelson, D. D., Bishop Coadjutor of Albany; "Reflections on Lawyers," by Frank M. Thorne; "Was Diogenes Looking for a Lawyer?" by Attorney-General Mayer.

On July 1, 1905, the membership of this Association consisted of sixteen hundred and eighty-seven active members, and one hundred and thirty honorary members; total, eighteen hundred and seventeen.

North Carolina Bar Association.

No report has been received.

Bar Association of North Dakota.

No report has been received.

THE OHIO STATE BAR ASSOCIATION.

The twenty-sixth annual session was held at Put-in-Bay, July 11, 12, 13 and 14, 1905, and was presided over by James O. Troup, of Bowling Green, President of the Association.

The meeting was one of the most successful and largely attended that was ever held by the Association; nearly a hundred new members were added to the list.

The President's address was delivered by James O. Troup, and exhaustively treated of the history of the Association from its founding in 1880 to the present time, showing what a factor the Association has been in Ohio during the past quarter of a century.

Annual reports were made by the Secretary, Edward B. McCarter, of Columbus, and by the Treasurer, Clement R. Gilmore, of Dayton, showing the Association to be in a flourishing condition.

The annual address was delivered by Peter S. Grosscup, of Chicago, United States Circuit Judge for the Seventh Circuit, whose subject was the "Corporation Problem and the Lawyer's Part in Its Solution." Judge Grosscup's address was listened to by a highly appreciative audience, as he treated the subject in his usual originative style, bringing forth many new ideas in the solution of the all-important problem of the day.

Thomas H. Hogsett, of Cleveland; Chas. T. Lewis, of Toledo, and Judge Howard C. Hollister, of Cincinnati, discussed "What changes, if any, can be made in the law defining the purposes for which corporations may be formed, and regulating their management which would operate for the benefit of the public, and obviate the necessity for federal action on the subject?"

The Committee on Divorce Laws made its report, but after much discussion, the matter went over until next year.

The Committee on Judicial Administration and Legal Reform made quite a lengthy report, which was unanimously

adopted, recommending among other things, the lengthening of the term of office of the judges of the Supreme Court, and the adoption of the formal court garb by the supreme judges for all public sessions.

The supreme judges appeared in their new robes of black silk on December 8, 1905, for the first time.

The committee also recommended changes in the legislation in regard to the insurance laws of the state.

The following memorials were read: On Governor George K. Nash, by Selwyn N. Owen; on Stephen R. Harris, by Smith W. Bennett; on Richard A. Harrison, by Henry J. Booth; on J. H. Collins, by W. O. Henderson; on Eli S. Hammond, by J. Kent Hamilton; on Linn W. Hull, by Edmund B. King; on Theodore Hall, by H. J. Burrows.

THE OKLAHOMA AND INDIAN TERRITORY BAR ASSOCIATION.

The second annual meeting was held at Oklahoma City, Oklahoma, December 21 and 22, 1905. The President's address was by Charles B. Stuart, of South McAlester, Indian Territory. It covered a review of the acts of the legislature of Oklahoma Territory and of Congress affecting the two territories.

The Committee on Jurisprudence and Law Reform strongly recommended the passage of a law providing for the appointment of a legal adviser to the legislature, who should be a salaried official elected by the Supreme Court of the state, to hold his office throughout the year. It should be the duty of this officer to receive complaints of all kinds in relation to existing statutes, suggestions for amendments and corrections, to advise the legislature and its members concerning every phase of law making.

The Committee on Law Reporting and Digesting made a report of the recommendation, made by the committee of the American Bar Association relative to the reporting of opinions, suggesting that only such opinions be officially reported as involved a new or peculiar principle of law, one which had not

been passed upon previously by the court. Recommendation was made by this committee for the reporting of a short summary of briefs of counsel. No action was taken. Discussion showed radically opposing views.

The Association will recommend to the next legislature a new jury law. This is to cure the present intricate method of summoning juries.

The papers read were as follows: "Some Suggestions on the Insurance Problem," by Orville T. Smith, of Guthrie; "History of the Treaty Relation with the Five Civilized Tribes," by Charles M. Fechheimer, of Chickasha; "The Trial Judge," by J. T. Dickerson, of Chickasha; "Land Titles in the Indian Territory—Cherokee Nation," by W. H. Kornegay, of Vinita—"Choctaw-Chickasaw Nations," by S. T. Bledsoe, of Ardmore—"Creek Nation," by William T. Hutchings, of Muskogee; "Lincoln, the Lawyer," by Jesse J. Dunn, of Alva; "Indeterminate Sentences," by W. L. Barnum, of Ponca City; "A Code of Laws for the New State of Oklahoma," by C. O. Blake, of El Reno; "The Growth and Development of Probate Courts in the United States," by Edwin H. Manning, of Baltimore, Maryland.

Oregon Bar Association.

The fifteenth annual meeting was held in Portland, November 21, 1905.

Owing to the illness and absence of the President, his annual address was omitted.

A committee of five was appointed to attend a National Divorce Congress to be held in the city of Washington, District of Columbia, in February, 1906.

The recommendations of the Grievance Committee for the employment of private prosecutor at an annual salary, and for the reconstruction of the Grievance Committee into a court of inquiry, and not a prosecuting body, were unanimously adopted.

Owing to the fact that there will be no legislature until 1907, legislative matters were not considered at this meeting.

Papers were read by Corwin S. Shank, of Seattle, on the "Lawyer in the Making of Nations," and by Robert G. Morrow, Official Reporter of the Oregon Supreme Court, on "Official Reporting."

This report of the proceedings of the annual meeting of the Oregon Bar Association would not be complete without referring to "Lawyers' Day," at the Lewis and Clark Centennial, held at Portland, Oregon, from June 1 to October 15, 1905. "Lawyers' Day" was celebrated on August 10 and 11, 1905. The principal address was by Hampton L. Carson, Attorney-General of Pennsylvania, on the subject of "Judicial Biography."

On the evening of August 10, a large and representative banquet of lawyers from the entire Pacific Coast was held at the American Inn, at which addresses were made by Hampton L. Carson, Attorney-General of Pennsylvania; W. E. Borah, of Boise, Idaho; W. B. Heyburn, United States Senator from Idaho, and other distinguished guests.

At this celebration there was formed the "Pacific Coast Bar Association," representing all states of what is know as the Pacific Slope.

(*For summary of proceedings, see Pacific Coast Bar Association.*)

August 11 was occupied in an excursion up the Columbia River and through the Cascade Locks.

Pacific Coast Bar Association.

At the invitation of the Oregon State Bar Association, the members of the Bar from the Pacific States and Territories met in the city of Portland, Oregon, August 10, 1905, "Lawyers' Day," at the Lewis and Clark Centennial, and after listening to an address by Hampton L. Carson, Attorney-General of Pennsylvania, proceeded to organize a Pacific Coast Bar Association. The constitution and by-laws of the American Bar Association were adopted in so far as they were applicable.

Ex-United States Attorney-General George H. Williams, of Portland, was elected President; C. Will Shaffer, of Olympia, Washington, Secretary; Lloyd C. Comeges, of San Francisco, California, Treasurer. Vice-Presidents were elected as follows: Washington, John W. Roberts, Seattle; Oregon, John B Cleland, Portland; Idaho, Warren Truitt, Moscow; California, John M. Burnett, San Francisco; Nevada, H. R. Cook, Reno; Alaska, W. A. Gilmore, Nome. Other states or territories to report vice-presidents later.

It was distinctly understood that the organization of the Pacific Coast Bar Association was not a disloyal movement against the American Bar Association, but that the Pacific Coast Association was a subordinate organization.

The time and place of the next meeting was left to the executive committee.

Pennsylvania Bar Association.

The eleventh annual meeting was held at Bedford Springs, Pennsylvania, June 27, 28 and 29, 1905.

The President's address was by Henry C. Niles, of York, being in reference to "Any Statutory Changes in the State of Public Interest, and any Needed Changes Suggested by Judicial Decisions during the Year." This address attracted much public attention and newspaper comment, and seemed to be a forerunner of the political revolution which has since taken place in the Commonwealth.

The annual address was by Charles A. Gardiner, of the New York Bar, upon "The Constitutional Powers and Discretion of the President."

The Treasurer's account showed a balance of $9573.17, the dues from members collected during the year being $5145.

Interesting reports were presented by the Committees on Law Reform, Legal Biography, Legal Education, Registration of Land Titles and Uniform State Laws. The delegates to the American Bar Association and to the Universal Congress of Lawyers and Jurists also made reports.

An act providing that a witness subpœnaed to appear in any civil action or proceeding in a court of record should not be compelled to do so, unless there should be paid or tendered to him the amount of his fees, etc., if he demands them, at the time of the service of the subpœna upon him, provoked considerable discussion and was recommitted to the Committee on Law Reform.

An act providing for the plotting and indexing of lands and the registry of deeds by county commissioners, after considerable discussion, having been reported by the Law Reform Committee with a negative recommendation, was referred back to the committee for further consideration.

Papers were read by Judge Robert Ralston, of Philadelphia, on "Some Remarks upon Charging the Jury in a Trial for Murder"; by Ira Jewell Williams, of Philadelphia, upon "Justice without Delay," and by W. Rush Gillan, of Chambersburg, upon "James Buchanan."

Rhode Island Bar Association.

The eighth annual meeting was held in Providence, December 4, 1905. The President, Francis Colwell, delivered an informal address in which he referred to the work of the Association and the important events of the year, chief of which was the reconstruction of the judicial system of the state, brought about by the Association, and now in effect.

John H. Stiness, ex-Chief Justice of Rhode Island, read a paper upon the "Life and Public Services of Judge Ames," a former Chief Justice of the Supreme Court.

South Carolina Bar Association.

The twelfth annual meeting was held in the city of Columbia, January 19 and 20, 1905.

The President, H. J. Haynesworth, of Greenville, delivered an address upon the subject, "The Spirit of Lynch Law and Its Control." The annual address upon the subject, "Opportunities and Duties of the Southern Lawyer," was delivered

by Colonel Hugh R. Garden, of New York city. Amasa M. Eaton, of Providence, Rhode Island, delivered an address upon the subject, "Uniformity of Legislation." As a result of Mr. Eaton's address, a committee was appointed to consider the Negotiable Instruments Bill referred to by Mr. Eaton, and to present the same for the consideration of the Association at its next meeting.

Various interesting reports were made by standing committees, and some of the recommendations of these committees were referred to the Committee on Legislation with instructions to bring the matters recommended to the attention of the legislature.

South Dakota Bar Association.

No report has been received.

Bar Association of Tennessee.

No report has been received.

Texas Bar Association.

The twenty-fourth annual meeting was held at Sherman, on July 12 and 13, 1905. The President's address, by H. C. Carter, of San Antonio, treated of the changes in statutory law by the last legislature, and contained a strong arraignment of the lobby in legislative methods.

The annual address was by Justice T. J. Brown, of the Texas Supreme Court, on the subject, "Our State Judiciary," being a review of the various systems tried during the history of the state and of the working of the present plan.

The report of the Committee on Criminal Law discussed the action of mobs and recommended a resolution denouncing mob violence in all its forms and demanding that neither property, liberty nor life be taken without due process of law, which was unanimously adopted. An extended debate was had upon the report of a special committee recommending the modification of the rule requiring unanimity of the jury to a

verdict in civil cases. A resolution to that effect was adopted by a vote of thirty-one to twenty-nine. A special committee was appointed to prepare and report a reformed practice act governing procedure in civil cases, and reports were received and acted on from various other committees.

Papers were read as follows: W. J. Moroney, of Dallas, on "How to Reform Our Civil Procedure"; M. H. Gossett, of Kaufman, on "Alien and Corporate Ownership of Land in Texas"; B. R. Webb, of Fort Worth, on "C. O. D. Sales of Intoxicating Liquors"; William H. Burges, of El Paso, on "A Comparative Study of the Constitutions of the United States of Mexico and the United States of America"; Nelson Phillips, of Dallas, on "A Great English Lawyer"; B. D. Tarlton, of Austin, on "The Texas Homestead Exemption"; John N. Henderson, of Bryan, on "The Old Court of Criminal Appeals and Its Work."

State Bar Association of Utah.

The eighth annual meeting was held at Salt Lake City, on January 9, 1905. President Andrew Howat delivered an able address on the subject, "The Attitude of the People towards the Law and Its Administration." Richard W. Young, recently a member of the Supreme Court of the Philippine Islands, read a paper entitled "The Philippine Penal Code." George H. Smith, of the law department of the Oregon Short Line Railroad Company, read a suggestive and timely paper on "Some Needed Legislative Corrections."

Vermont State Bar Association.

The twenty-seventh annual meeting was held at Montpelier October 24 and 25, 1905. President William W. Stickney's address was on the "State Constitution." Memorial papers were read on ex-Chief Judge and United States Senator Jonathan Ross, and on ex-President of the Association, W. L. Burnap. It was proposed so to amend the Constitution of the Association as to make eligible to membership county clerks

who were not members of the Bar. A change in the judicial system of the state was urged to be recommended. At present the seven judges hold trial terms, and also constitute the Supreme Court of the state. It frequently happens that a county court will have to adjourn without completing its business that the presiding judges may attend the Supreme Court in banc. A committee of seven was appointed to report a new judicial system, by October, 1906, suitable to introduce at the next legislature, which sits in October, 1906. A resolution of sympathy was sent to Judge H. R. Start, of the Supreme Court, on his long illness.

Virginia State Bar Association.

No report has been received.

Washington State Bar Association.

The seventeenth annual session was held in the city of Spokane, July 6, 7 and 8, 1905, Edward Whitson, United States District Judge for the Eastern District of Washington, President of the Association, presiding. The President's address covered professional and ethical subjects; reviewed recent important decisions; called attention to the growing sentiment of international arbitration; presented the contentions for uniformity of state laws and doubted the wisdom of so much effort being spent along that line, and dwelt at considerable length on the growth of socialism in the form of municipal ownership and the regulation of the hours of labor. Other papers read were: "The Jury System," by S. M. Bruce, of Bellingham; "The Law of Labor and Labor Organizations," by Harvey L Johnson, of Tacoma; "The Community Property Law of Washington and Non-Residents," by George Ladd Munn, of Seattle, and "Is the Provision of Our State Constitution Relative to Private Ways of Necessity in Conflict with the Fourteenth Amendment?" by C. C. Gose, of Walla Walla.

The Association recommended that the method of selecting jurymen in the state courts be extended by Congress to the

federal courts. The present method is a non-partisan commission of two appointed by the court from four recommended by the Bar, who annually select a jury list, and then, from time to time, as panels are required under the direction of the court, draw from this list. Also that federal juries may return a verdict agreed to by ten jurors, as in the state courts.

The Committee of Judicial Administration and Remedial Procedure recommended, and the Association approved, a plan to secure the adoption of the practice of submitting instructions to juries in writing, the same to be read to the jury before the argument, and the jury be allowed to take such instructions to the jury room. Also, that a committee be appointed to study and devise a plan for relief of the congested condition of the courts. The Committee on Juvenile Courts recommended further legislation along that line, and the Committee on Uniform Legislation gave a brief review of the history of that subject.

On the last day of the session the Association was the guest of the Spokane County Bar Association to an excursion and banquet on Lake Cœur d'Alene.

The 1906 session will be held at Everett, July 12, 13 and 14.

LIST OF BAR ASSOCIATIONS IN THE UNITED STATES.

NOTE.—This list has been compiled by the Secretary of the American Bar Association from replies to circulars sent out. While pains have been taken to make it as complete as possible, it is probable that some Associations have been omitted. All Associations which are purely Library Associations are intended to be omitted. In some cases the officers for former years are given where officers for 1905 are not known.

The Secretary acknowledges the courtesy of the Secretaries of various State Bar Associations in supplying the information as to local associations in their respective states.

The Secretary will be much indebted for information of any omissions and for corrections of the names of officers.

ALABAMA.

NAME.	PRESIDENT.	SECRETARY.
Alabama State Bar Association.	George P. Harrison, Opelika.	Alexander Troy, Montgomery.
BIRMINGHAM BAR ASSOCIATION.	John London, Birmingham.	L. J. Haley, Jr., Birmingham.
CALHOUN COUNTY BAR ASSOCIATION.	W. F. Johnston, Anniston.	C. D. Kline, Anniston.
MOBILE BAR ASSOCIATION.	Harry Pillans, Mobile.	Robert F. Gordon, Mobile.

ALASKA TERRITORY.

TANANA BAR ASSOCIATION.	John F. Dillon, (1904) Fairbanks.	Edward B. Condon, (1904) Fairbanks.

ARIZONA.

Bar Association of Arizona.	M. A. Smith, Tucson.	Paul Renan Ingles, Phoenix.
NORTHERN ARIZONA BAR ASSOCIATION.	T. G. Norris, Prescott.	E. M. Sanford, Prescott.

ARKANSAS.

NAME.	PRESIDENT.	SECRETARY.
Bar Association of Arkansas.	Joseph M. Stayton, Newport.	Rescoe R. Lynn, Little Rock.
FORT SMITH BAR ASSOCIATION.	James F. Read, Fort Smith.	Lovick P. Miles, Fort Smith.

CALIFORNIA.

California State Bar Association.	Lloyd C. Comegys, San Francisco.	Walter S. Brann, San Francisco.
ALAMEDA COUNTY BAR ASSOCIATION.	George E. DeGolia, Oakland.	Frank Vaughn, Oakland.
ALPINE COUNTY BAR ASSOCIATION.	N. D. Arnot, Loope.	Jacob E. Cohn, Loope.
AMADOR COUNTY BAR ASSOCIATION.	D. R. Spagnoli, Jackson.	J. W. Caldwell, Jackson.
BUTTE COUNTY BAR ASSOCIATION.	John C. Gray, Oroville.	Albert E. Boynton, Oroville.
COLUSA COUNTY BAR ASSOCIATION.	H. M. Albery, Colusa.	Thomas Rutledge, Colusa.
CONTRA COSTA COUNTY BAR ASSOCIATION.	William S. Wells, Martinez.	J. E. Rodgers, Martinez.
DEL NORTE COUNTY BAR ASSOCIATION.	John L. Childs, Crescent City.	E. S. Hersch, Crescent City.
EL DORADO COUNTY BAR ASSOCIATION.	M. P. Bennett, Placerville.	William C. Burgess, Placerville.
GLENN COUNTY BAR ASSOCIATION.	George R. Freeman, Willows.	George M. Parks, Willows.
HUMBOLDT COUNTY BAR ASSOCIATION.	A. J. Monroe, Eureka.	P. H. Ryan, Eureka.
INYO COUNTY BAR ASSOCIATION.	Ben H. Yandell, Independence.	William D. Dehy, Independence.

CALIFORNIA—Continued.

NAME.	PRESIDENT.	SECRETARY.
KINGS COUNTY BAR ASSOCIATION.	H. P. Brown, Hanford.	L. N. Crowell, Hanford.
LAKE COUNTY BAR ASSOCIATION.	M. S. Sayre, Lakeport.	H. V. Keeling, Lakeport.
LASSEN COUNTY BAR ASSOCIATION.	J. E. Pardee, Susanville.	R. M. Rankin, Susanville.
LOS ANGELES BAR ASSOCIATION.	James A. Gibson, Los Angeles.	W. R. Hervey, Los Angeles.
LOS ANGELES COUNTY BAR ASSOCIATION.	H. M. Barstow, Los Angeles.	E. T. Barber, Los Angeles.
MARIN COUNTY BAR ASSOCIATION.	O. F. Meldon, Sausalito.	George H. Harland, Sausalito.
MARIPOSA COUNTY BAR ASSOCIATION.	J. J. Trabucco, Mariposa.	John A. Wall, Mariposa.
MENDOCINO COUNTY BAR ASSOCIATION.	J. Q. White, Ukiah.	A. J. Thatcher, Ukiah.
MERCED COUNTY BAR ASSOCIATION.	E. N. Rector, Merced.	E. R. Jones, Merced.
MODOC COUNTY BAR ASSOCIATION.	John E. Raker, Alturas.	J. S. Henderson, Alturas.
MONO COUNTY BAR ASSOCIATION.	J. D. Murphy, Bridgeport.	Vacant.
MONTEREY COUNTY BAR ASSOCIATION.	B. V. Sargent, Salinas.	W. R. Hawkins, Salinas.
NAPA COUNTY BAR ASSOCIATION.	H. L. Johnson, Napa.	Wallace T. Rutherford, Napa.
NEVADA COUNTY BAR ASSOCIATION.	John R. Tyrrell, Nevada City.	I. C. Lindley, Nevada City.
OAKLAND BAR ASSOCIATION.	George W. Reed, Oakland.	Geo. E. DeGolia, Oakland.

CALIFORNIA—Continued.

NAME.	PRESIDENT.	SECRETARY.
ORANGE COUNTY BAR ASSOCIATION.	Z. B. West, Santa Ana.	H. G. Forgy, Santa Ana.
PLACER COUNTY BAR ASSOCIATION.	J. E. Prewett, Auburn.	Vacant.
PLUMAS COUNTY BAR ASSOCIATION.	W. W. Kellogg, Quincy.	L. N. Peter, Quincy.
SACRAMENTO BAR ASSOCIATION.	Grove L. Johnson, Sacramento.	S. Luke Howe, Sacramento.
SAN BENITO COUNTY BAR ASSOCIATION.	M. T. Dooling, Hollister.	L. W. Jefferson, Hollister.
SAN BERNARDINO COUNTY BAR ASSOCIATION.	Frank F. Oster, San Bernardino.	Percy Hight, San Bernardino.
SAN DIEGO BAR ASSOCIATION.	T. L. Lewis, San Diego.	C. C. Haines, San Diego.
SAN DIEGO COUNTY BAR ASSOCIATION.	A. D. Jordan, San Diego.	Fred. O'Farrell, San Diego.
SAN LUIS OBISPO COUNTY BAR ASSOCIATION.	McD. R. Venable, San Luis Obispo.	Charles B. Kaetzel, San Luis Obispo.
BAR ASSOCIATION OF SAN FRANCISCO.	W. S. Goodfellow, San Francisco.	George J. Martin, San Francisco.
SAN MATEO COUNTY BAR ASSOCIATION.	George H. Buck, Redwood City.	Henry W. Walker, Redwood City.
SANTA BARBARA COUNTY BAR ASSOCIATION.	Jarret T. Richards, Santa Barbara.	Howard C. Crittenden, Santa Barbara.
SANTA CLARA COUNTY BAR ASSOCIATION.	J. R. Welch, San Jose.	H. Ray Fry, San Jose.
SANTA CRUZ COUNTY BAR ASSOCIATION.	Lucas F. Smith, Santa Cruz.	W. P. Netherton, Santa Cruz.
SIERRA COUNTY BAR ASSOCIATION.	Stanley A. Smith, Downieville.	W. I. Redding, Downieville.

CALIFORNIA—Continued.

NAME.	PRESIDENT.	SECRETARY.
SISKIYOU COUNTY BAR ASSOCIATION.	J. S. Beard, Yreka.	C. W. Strother, Yreka.
SOLANO COUNTY BAR ASSOCIATION.	A. J. Buckles, Vallejo.	Frank R. Devlin, Vallejo.
SONOMA COUNTY BAR ASSOCIATION.	Albert G. Burnett, Santa Rosa.	Rolf Thompson, Santa Rosa.
STANISLAUS COUNTY BAR ASSOCIATION.	William O. Minor, Modesto.	John J. Stafford, Modesto.
SUTTER COUNTY BAR ASSOCIATION.	K. S. Mahon, Yuba City.	Vacant.
TEHAMA COUNTY BAR ASSOCIATION.	J. F. Ellison, Red Bluff.	Vacant.
TRINITY COUNTY BAR ASSOCIATION.	James W. Bartlett, Weaverville.	D. J. Hall, Weaverville.
TULARE COUNTY BAR ASSOCIATION.	W. B. Wallace, Visalia.	Vacant.
TUOLUMNE COUNTY BAR ASSOCIATION.	Crittenden Hampton, Sonora.	J. C. Webster, Sonora.
VENTURA COUNTY BAR ASSOCIATION.	W. H. Barnes, Ventura.	B. T. Williams, Ventura.
YOLO COUNTY BAR ASSOCIATION.	W. H. Grant, Woodland.	Ben A. Martin, Woodland.
YUBA COUNTY BAR ASSOCIATION.	E. P. McDaniel, Marysville.	E. B. Stanwood, Marysville.

COLORADO.

Colorado Bar Association.	Henry T. Rogers, Denver.	Lucius W. Hoyt, Denver.
DENVER BAR ASSOCIATION.	Charles S. Thomas, Denver.	James M. Lomery, Denver.

COLORADO—Continued.

NAME.	PRESIDENT.	SECRETARY.
EL PASO COUNTY BAR ASSOCIATION.	Orlando B. Willcox, Colorado Springs.	George M. Irwin, Colorado Springs.
LARIMER COUNTY BAR ASSOCIATION.	Frank J. Annis, Collins.	Paul W. Lee, Collins.
PUEBLO COUNTY BAR ASSOCIATION.	Thomas H. Devine, Pueblo.	C. A. Rickey, Pueblo.
TELLER COUNTY BAR ASSOCIATION.	J. E. Rinker, Cripple Creek.	V. H. Miller, Cripple Creek.

CONNECTICUT.

State Bar Association of Connecticut.	Charles E. Perkins, Hartford.	Charles M. Joslyn, Hartford.
BRIDGEPORT BAR ASSOCIATION.	Jno. C. Chamberlain, Bridgeport.	Wm. H. Kelsey, Bridgeport.
HARTFORD COUNTY BAR ASSOCIATION.	Charles E. Perkins, Hartford.	William F. Henney, Hartford.

DELAWARE.

Delaware State Bar Association.	Benjamin Nields, Wilmington.	T. Bayard Heisel, Wilmington.
KENT COUNTY BAR ASSOCIATION.	Henry R. Johnson, (1904) Dover.	A. M. Daly, (1904) Dover.
BAR ASSOCIATION OF NEW CASTLE COUNTY.	Charles B. Evans, Wilmington.	David J. Reinhardt, Wilmington.
BAR ASSOCIATION OF SUSSEX COUNTY.	Charles F. Richards, (1904) Georgetown.	Albert F. Polk, (1904) Georgetown.

DISTRICT OF COLUMBIA.

Bar Association of the District of Columbia.	Hugh T. Taggart, Washington.	Charles W. Clagett, Washington.
FEDERAL BAR ASSOCIATION OF D. C.	John W. Douglass, Washington.	George A. King, Washington.
PATENT LAW ASSOCIATION OF WASHINGTON.	Melville Church, (1904) Washington.	James M. Spear, (1904) Washington.

FLORIDA.

NAME.	PRESIDENT.	SECRETARY.
HILLSBOROUGH COUNTY BAR ASSOCIATION	Don C. McMullen, Tampa.	M. Henry Cohen, Tampa.
JACKSONVILLE BAR ASSOCIATION.	Walter B. Clarkson, Jacksonville.	George C. Gibbs, Jacksonville.
KEY WEST BAR ASSOCIATION.	L. W. Bethel, Key West.	Julius Otto, Key West.
MARIANNA BAR ASSOCIATION.	W. H. Milton, Marianna.	J. C. McKinnon, Marianna.

GEORGIA.

Georgia Bar Association.	T. A. Hammond, Atlanta.	Orville A. Park, Macon.
ATLANTA BAR ASSOCIATION.	John L. Hopkins, Atlanta.	William P. Hill, Atlanta.
AUGUSTA BAR ASSOCIATION.	J. C. C. Black, Augusta.	George T. Jackson, Augusta.
LA GRANGE BAR ASSOCIATION.	Frank Harwell, La Grange.	E. A. Jones, La Grange.
BAR ASSOCIATION OF THE CITY OF MACON.	A. L. Miller, Macon.	Andrew W. Lane, Macon.

HAWAII TERRITORY.

Bar Association of the Hawaiian Islands.	A. G. M. Robertson, Honolulu.	Charles F. Clemons, Honolulu.

ILLINOIS.

Illinois State Bar Association.	George T. Page, Peoria.	James H. Matheny, Springfield.
THE ILLINOIS ASSOCIATION OF COUNTY AND PROBATE JUDGES.	Rolland A. Russell, Bloomington.	Charles B. McCrory, Quincy.
THE ILLINOIS ASSOCIATION OF STATE'S ATTORNEYS.	Frank Hatch, Springfield.	Herman Brown, Rushville.

ILLINOIS—Continued.

NAME.	PRESIDENT.	SECRETARY.
BOND COUNTY BAR ASSOCIATION.	William H. Dawdy. Greenville.	F. W. Fritz, Greenville.
BOONE COUNTY BAR ASSOCIATION.	Robert W. Wright, Belvidere.	Richard V. Carpenter. Belvidere.
CHICAGO BAR ASSOCIATION.	Edgar A. Bancroft, Chicago.	Charles P. Abbey, Chicago.
CHICAGO LAW INSTITUTE.	William E. Church, Chicago.	Alfred E. Barr, Chicago.
THE LAW CLUB OF CHICAGO.	Charles S. Cutting, Chicago.	Benj. F. Hinman, Jr., Chicago.
THE PATENT LAW ASSOCIATION OF CHICAGO.	C. Clarence Poole, Chicago.	Francis A. Hopkins, Chicago.
CLINTON COUNTY BAR ASSOCIATION.	Darius Kingsbury, Carlyle.	Hugh Vincent Murray, Carlyle.
EDGAR COUNTY BAR ASSOCIATION.	Andrew J. Hunter, Paris.	Joseph E. Dyas, Paris.
GOLCONDA BAR ASSOCIATION.	W. A. Whitside, Golconda.	George B. Baker, Golconda.
JERSEY COUNTY BAR ASSOCIATION.	Oscar B. Hamilton, Jerseyville.	Charles S. White, Jerseyville.
JO DAVIESS COUNTY BAR ASSOCIATION.	David Sheean, Galena.	D. B. Blewett, Galena.
KANKAKEE COUNTY BAR ASSOCIATION.	B. L. Cooper, Kankakee.	J. H. Merrill, Kankakee.
KEWANEE BAR ASSOCIATION.	C. C. Wilson, Kewanee.	F. J. Tilton, Kewanee.
KNOX COUNTY BAR ASSOCIATION.	George Shumway, Galesburg.	John H. Lewis, Jr., Galesburg.
LAKE COUNTY BAR ASSOCIATION.	Homer Cooke, Waukegan.	Benjamin H. Miller, Waukegan.

ILLINOIS—Continued.

NAME.	PRESIDENT.	SECRETARY.
La Salle County Bar Association.	Henry Mayo, Ottawa.	I. I. Hanna, Ottawa.
Lee County Bar Association.	William Barge, Dixon.	C. B. Morrison, Dixon.
Logan County Bar Association.	Joseph Hodnett, Lincoln.	A. L. Anderson, Lincoln.
Macon County Bar Association.	Andrew H. Mills, Decatur.	James S. Baldwin, Decatur.
McDonough County Bar Association.	Geo. D. Tunnicliff. Macomb.	Jesse T. Neece, Macomb.
McLean County Bar Association.	Charles L. Capen, Bloomington.	Ezra M. Prince, Bloomington.
McLeansboro Bar Association.	T. B. Stelle, McLeansboro.	J. H. Lane, McLeansboro.
Mercer County Bar Association.	I. N. Bassett, Aledo.	G. B. Morgan, Aledo.
Morgan County Bar Association.	William Brown, Jacksonville.	L. O. Vaught, Jacksonville.
Perry County Bar Association.	R. W. S. Wheatley, Pinckneyville.	I. R. Spillman, Pinckneyville.
Pike County Bar Association.	J. M. Bush, Sr., Pittsfield.	Mark M. Bradburn, Pittsfield.
Quincy Bar Association.	Joseph N. Carter, Quincy.	Walter Bennett, Quincy.
Rock Island County Bar Association.	Elmore W. Hurst, Rock Island.	J. S. Murphy, Rock Island.
Sangamon County Bar Association.	Alfred Orendorff, Springfield.	Roy M. Seely, Springfield.
Tazewell County Bar Association.	W. B. Cooney, Pekin.	E. E. Black, Pekin.

ILLINOIS—Continued.

NAME.	PRESIDENT.	SECRETARY.
VERMILLION COUNTY BAR ASSOCIATION.	Fred Draper, Danville.	W. R. Chambers, Danville.
WARREN COUNTY BAR ASSOCIATION.	Almon Kidder, Monmouth.	C. M. Huey, Monmouth.
WASHINGTON COUNTY BAR ASSOCIATION.	P. E. Hosmer, Nashville.	James A. Watts, Nashville.
WAYNE COUNTY BAR ASSOCIATION.	John R. Holt, Fairfield.	John Keen, Jr., Fairfield.
BAR ASSOCIATION OF WHITE COUNTY.	James C. Pierce, Carmi.	Richard Specknall, Carmi.
WHITESIDE COUNTY BAR ASSOCIATION.	William H. Allen, Erie.	John A. Ward, Sterling.

INDIANA.

State Bar Association of Indiana.	Charles L. Jewett, New Albany.	Merrill Moores, Indianapolis.
ADAMS COUNTY BAR ASSOCIATION.	Robert S. Peterson, Decatur.	Clark J. Lutz, Decatur.
ALLEN COUNTY BAR ASSOCIATION.	James B. Harper, Fort Wayne.	Guy Colerick, Fort Wayne.
CLAY COUNTY BAR ASSOCIATION.	George A. Knight, Brazil.	S. Walter Lee, Brazil.
CLINTON COUNTY BAR ASSOCIATION.	Charles G. Guenther, Frankfort.	James T. Hockman, Frankfort.
DANVILLE BAR ASSOCIATION.	Thomas J. Cofer, Danville.	John McCormick, Danville.
DEARBORN COUNTY BAR ASSOCIATION.	George M. Roberts, Lawrenceburg.	Warren H. Hauck, Lawrenceburg.
ELKHART COUNTY BAR ASSOCIATION.	John M. Van Fleet, Goshen.	Martin H. Kinney, Goshen.

INDIANA—Continued.

NAME.	PRESIDENT.	SECRETARY.
EVANSVILLE BAR ASSOCIATION.	Alexander Gilchrist, Evansville.	Philip W. Frey, Evansville.
GRANT COUNTY BAR ASSOCIATION.	Henry J. Paulus, Marion.	Field J. Sweezey, Marion.
HAMILTON COUNTY BAR ASSOCIATION.	Ira W. Christian, Noblesville.	Meade Vestal, Noblesville.
HANCOCK COUNTY BAR ASSOCIATION.	Edward W. Felt, Greenfield.	Earl Sample, Greenfield.
HOWARD COUNTY BAR ASSOCIATION.	William C. Purdum, Kokomo.	John R. McIntosh, Kokomo.
HUNTINGTON COUNTY BAR ASSOCIATION.	Ulysses S. Lesh, Huntington.	C. K. Lucas, Huntington.
INDIANAPOLIS BAR ASSOCIATION.	John B. Elam, Indianapolis.	Ernest R. Keith, Indianapolis.
JAY COUNTY BAR ASSOCIATION.	David T. Taylor, Portland.	Frank B. Jaqua, Portland.
KNOX COUNTY BAR ASSOCIATION.	James M. House, Vincennes.	Duncan L. Beckes, Vincennes.
LAKE COUNTY BAR ASSOCIATION.	Armanis F. Knotts, Hammond.	Charles E. Greenwald, Whiting.
MADISON COUNTY BAR ASSOCIATION.	Frank P. Foster, Anderson.	E. B. McMahan, Anderson.
MARTINSVILLE BAR ASSOCIATION.	James V. Mitchell, Martinsville.	E. Forest Branch, Martinsville.
PUTNAM COUNTY BAR ASSOCIATION.	Jonathan Birch, Greencastle.	Smith C. Matson, Greencastle.
SHELBY COUNTY BAR ASSOCIATION.	David L. Wilson, Shelbyville.	John A. Tindall, Shelbyville.
STARKE COUNTY BAR ASSOCIATION.	Charles C. Kelly, Knox.	W. C. Pentecost, Knox.

INDIANA—Continued.

NAME.	PRESIDENT.	SECRETARY.
THIRTY-FIFTH JUDICIAL CIRCUIT BAR ASSOCIATION.	Charles M. Brown, Auburn.	Will H. Willennar, Auburn.
VERMILLION COUNTY BAR ASSOCIATION.	Martin G. Rhoads, Newport.	George D. Sunkel, Newport.
WABASH BAR ASSOCIATION.	Alvah Taylor, Wabash.	Thomas L. Stitt, Wabash.

IOWA.

Iowa State Bar Association.	W. H. Baily, Des Moines.	Charles M. Dutcher, Iowa City.
ADAMS COUNTY BAR ASSOCIATION.	Frank M. Davis, (1904) Corning.	A. Ray Maxwell, (1904) Corning.
BLACKHAWK COUNTY BAR ASSOCIATION.	O. B. Courtright, Waterloo.	J. S. Tuthill, Waterloo.
BOONE COUNTY BAR ASSOCIATION.	S. R. Dyer, Boone.	W. W. Goodykoontz, Boone.
BUCHANAN COUNTY BAR ASSOCIATION.	M. W. Harmon, (1904) Independence.	H. C. Chappell, (1904) Independence.
CALHOUN COUNTY BAR ASSOCIATION.	M. W. Frick, Rockwell City.	L. H. Fouts, Rockwell City.
CASS COUNTY BAR ASSOCIATION.	John W. Scott, Atlantic.	W. A. Follett, Atlantic.
CEDAR COUNTY BAR ASSOCIATION.	E. M. Brink, (1904) Tipton.	George C. Hoover, (1904) West Branch.
CLARKE COUNTY BAR ASSOCIATION.	M. L. Temple, (1904) Osceola.	W. M. Hyland, (1904) Osceola.
CLAYTON COUNTY BAR ASSOCIATION.	James O. Crosby, Garnavillo.	B. W. Newberry, Strawberry Point.
CLINTON COUNTY BAR ASSOCIATION.	Charles W. Chase, Clinton.	A. L. Schuyler, Clinton.

IOWA—Continued.

NAME.	PRESIDENT.	SECRETARY.
DECATUR COUNTY BAR ASSOCIATION.	J. W. Harvey, (1904) Leon.	C. W. Hoffman, (1904) Leon.
DES MOINES BAR ASSOCIATION.	Howard J. Clark, Des Moines.	William B. Brown, Des Moines.
DUBUQUE COUNTY BAR ASSOCIATION.	A. P. Gibbs, Dubuque.	S. B. Lattner, Dubuque.
FORT MADISON BAR ASSOCIATION.	W. S. Hamilton, Fort Madison.	O. E. Herminghausen. Fort Madison.
HAMILTON COUNTY BAR ASSOCIATION.	(Vacant)	G. F. Tucker, Webster City.
JACKSON COUNTY BAR ASSOCIATION.	D. A. Wynkoop, Maquoketa.	E. C. Johnson, Maquoketa.
JASPER COUNTY BAR ASSOCIATION.	O. C. Meredith, Newton.	J. A. Mattern, Newton.
JEFFERSON COUNTY BAR ASSOCIATION.	Charles D. Leggett, Fairfield.	E. F. Simmons, Fairfield.
JOHNSON COUNTY BAR ASSOCIATION.	M. J. Wade, Iowa City.	W. J. McDonald, Iowa City.
JONES COUNTY BAR ASSOCIATION.	J. S. Stacy, (1904) Anamosa,	W. I. Chamberlain, (1904) Wyoming.
KEOKUK BAR ASSOCIATION.	H. H. Trimble, Keokuk.	John P. Hornish, Keokuk.
KOSSUTH COUNTY BAR ASSOCIATION.	E. V. Swetting, (1904) Algona.	Charles A. Cohenour, (1904) Algona.
LINN COUNTY BAR ASSOCIATION.	M. P. Smith, Cedar Rapids.	Thomas B. Powell, Cedar Rapids.
LOUISA COUNTY BAR ASCIATION.	John Hale, (1904) Wapello.	W. H. Hurley, (1904) Wapello.
LUCAS COUNTY BAR ASSOCIATION.	T. M. Stuart, (1904) Chariton.	L. B. Bartholomew, (1904) Chariton.

IOWA—Continued.

NAME.	PRESIDENT.	SECRETARY.
MAHASKA COUNTY BAR ASSOCIATION.	James B. Bolton, Oskaloosa.	James G. Patterson, Oskaloosa.
MONONA COUNTY BAR ASSOCIATION.	T. B. Lutz, Mapleton.	A. Kindall, Onawa.
MONROE COUNTY BAR ASSOCIATION.	T. B. Perry, (1904) Albia.	D. W. Bates, (1904) Albia.
MUSCATINE COUNTY BAR ASSOCIATION.	J. Carskaddan. (1904) Muscatine.	William Hoffman, (1904) Muscatine.
OSCEOLA COUNTY BAR ASSOCIATION.	C. M. Brooks, Sibley.	John F. Glover, Sibley.
POTTAWATTAMIE COUNTY BAR ASSOCIATION.	William Mynster, Council Bluffs.	D. E. Stuart, Council Bluffs.
SCOTT COUNTY BAR ASSOCIATION.	Henry Vollmer, Davenport.	Albert J. Noth, Davenport.
SHELBY COUNTY BAR ASSOCIATION.	Edmund Lockwood, (1904) Harlan.	Thos. H. Smith, (1904) Harlan.
BAR ASSOCIATION OF SIOUX CITY.	Craig L. Wright, Sioux City.	John R. Carter, Sioux City.
SIOUX COUNTY BAR ASSOCIATION.	William Hutchinson, (1904) Orange City.	G. W. Pelts, (1904) Orange City.
UNION COUNTY BAR ASSOCIATION.	E. F. Sullivan, (1904) Creston.	P. C. Winter, (1904) Creston.
VAN BUREN COUNTY BAR ASSOCIATION.	Alex. Brown, (1904) Keosauqua.	J. C. Calhoun. (1904) Keosauqua.
WAPELLO COUNTY BAR ASSOCIATION.	E. E. McElroy, (1904) Ottumwa.	Chas. Hall, (1904) Ottumwa.
WARREN COUNTY BAR ASSOCIATION.	H. McNeil, Indianola.	A. V. Proudfoot, Indianola.
WASHINGTON COUNTY BAR ASSOCIATION.	H. M. Eicher, Washington.	Carlton C. Wilson, Washington.

IOWA—Continued.

NAME.	PRESIDENT.	SECRETARY.
WEBSTER COUNTY BAR ASSOCIATION.	A. N. Botsford, Fort Dodge.	Wm. T. Chantland, Fort Dodge.
WINNESHIEK COUNTY BAR ASSOCIATION.	M. Harter, (1904) Ossian.	Dan Shea, (1904) Decorah.
WRIGHT COUNTY BAR ASSOCIATION.	A. R. Ladd, (1904) Clarion.	J. W. McGrath, (1904) Eagle Grove.

KANSAS.

Bar Association of the State of Kansas.	Charles W. Smith, Stockton.	D. A. Valentine, Topeka.
COUNCIL GROVE BAR ASSOCIATION.	M. B. Nicholson, Council Grove.	W. J. Pirtle, Council Grove.
DOUGLAS COUNTY BAR ASSOCIATION.	W. W. Nevison, Lawrence.	Lucius H. Perkins, Lawrence.
SEDGWICK COUNTY BAR ASSOCIATION.	J. D. Houston, Wichita.	V. Harris, Wichita.

KENTUCKY.

Kentucky State Bar Association.	D. L. Thornton, Versailles.	R. A. McDowell, Louisville.
KENTON COUNTY BAR ASSOCIATION.	Richard H. Gray, Covington.	A. E. Stricklett, Covington.
LOUISVILLE BAR ASSOCIATION.	John B. Baskin, Louisville.	John M. Scott, Louisville.
MURRAY BAR ASSOCIATION.	Conn Linn, (1904) Murray.	Charles Jetton, (1904) Murray.

LOUISIANA.

Louisiana Bar Association.	Edwin T. Merrick, New Orleans.	W. S. Benedict, New Orleans.

MAINE.

NAME.	PRESIDENT.	SECRETARY.
Maine State Bar Association.	Orville D. Baker, Augusta.	Leslie C. Cornish, Augusta.
CUMBERLAND BAR ASSOCIATION.	Hanno W. Gage, Portland.	John F. A. Merrill, Portland.
FRANKLIN COUNTY BAR ASSOCIATION.	Henry L. Whitcomb, Farmington.	Byron M. Small, Farmington.
HANCOCK COUNTY BAR ASSOCIATION.	Eugene Hale, Ellsworth.	Arno W. King, Ellsworth.
KENNEBEC BAR ASSOCIATION.	Charles F. Johnson, Waterville.	Chas. L. Andrews, Augusta.
PENOBSCOT BAR ASSOCIATION.	Franklin A. Wilson, Bangor.	Frederick H. Appleton, Bangor.
SOMERSET BAR AND LAW LIBRARY ASSOCIATION.	O. R. Bachelder, Skowhegan.	W. T. Seekins, Skowhegan.
YORK BAR ASSOCIATION.	Nathaniel B. Walker, Biddeford.	Gorham N. Weymouth, Biddeford.

MARYLAND.

Maryland State Bar Association.	John P. Briscoe, Prince Frederick.	James U. Dennis, Baltimore.
ALLEGANY COUNTY BAR ASSOCIATION.	Albert A. Doub, Cumberland.	D. Lindley Sloan, Cumberland.
THE BAR ASSOCIATION OF BALTIMORE CITY.	Richard M. Venable, Baltimore.	James W. Bowers. Baltimore.
CAROLINE COUNTY BAR ASSOCIATION.	T. Pliney Fisher, Denton.	T. Allan Goldsborough, Denton.
CARROLL COUNTY BAR ASSOCIATION.	James A. C. Bond, Westminster.	E. O. Grimes, Jr., Westminster.
CECIL COUNTY BAR AND LAW LIBRARY ASSOCIATION.	William S. Evans, Elkton.	Joshua Clayton, Elkton.

MARYLAND—Continued.

NAME.	PRESIDENT.	SECRETARY.
GARRETT COUNTY BAR ASSOCIATION.	Gilmor S. Hamill, Oakland.	Julius C. Renninger, Oakland.
MONTGOMERY COUNTY BAR ASSOCIATION.	Hattersly W. Talbott, Rockville.	Philip D. Laird, Rockville.
PRINCE GEORGE'S COUNTY BAR ASSOCIATION.	George C. Merrick, Marlboro.	Allan Bowie, Marlboro.
WASHINGTON COUNTY BAR ASSOCIATION.	Daniel W. Doub, Hagerstown.	Alexander Armstrong, Hagerstown.
WICOMICO COUNTY BAR ASSOCIATION.	Charles F. Holland, Salisbury.	Elmer H. Walton, Salisbury.

MASSACHUSETTS.

BAR ASSOCIATION OF THE CITY OF BOSTON.	Alfred Hemenway, Boston.	Robert S. Gorham, Boston.
BERKSHIRE BAR ASSOCIATION.	Carlton T. Phelps, North Adams.	Charles E. Burker, Pittsfield.
ESSEX BAR ASSOCIATION.	William H. Niles, Lynn.	Alden P. White, Salem.
FALL RIVER BAR ASSOCIATION.	Andrew J. Jennings, Fall River.	Edward A. Thurston. Fall River.
FRANKLIN COUNTY BAR ASSOCIATION.	Samuel O. Lamb, Greenfield.	Burt H. Winn, Greenfield.
HAMPDEN BAR ASSOCIATION.	Charles L. Gardner, Springfield.	Robert O. Morris, Springfield.
HAMPSHIRE BAR ASSOCIATION.	Timothy G. Spaulding, Northampton.	Haynes H. Chilson, Northampton.
HAVERHILL BAR ASSOCIATION.	Robert D. Trask, Haverhill.	J. Frank Batchelder, Haverhill.
LAWRENCE BAR ASSOCIATION.	William S. Knox, Andover.	John C. Sanborn, Jr., Lawrence.
LYNN BAR ASSOCIATION.	John W. Berry, Lynn.	Charles Leighton, Lynn.

MASSACHUSETTS—Continued.

NAME.	PRESIDENT.	SECRETARY.
BAR ASSOCIATION OF THE COUNTY OF MIDDLESEX.	Samuel K. Hamilton, Boston.	Frank M. Forbush, Boston.
NEW BEDFORD BAR ASSOCIATION.	Charles W. Clifford, New Bedford.	Frank A. Milliken, New Bedford.
NEWBURYPORT BAR ASSOCIATION.	J. C. M. Bayley, Newburyport.	George H. O'Connell, Newburyport.
BAR ASSOCIATION OF NORFOLK COUNTY.	Asa P. French, (1904) Boston.	Charles F. Spear, (1904) Hyde Park.
PLYMOUTH COUNTY BAR ASSOCIATION.	Benjamin W. Harris, (1904) E. Bridgewater.	Arthur Lord, (1904) Plymouth.
SALEM BAR ASSOCIATION.	(Vacant)	Joseph B. Saunders, Salem.
TAUNTON BAR ASSOCIATION.	Wm. S. Woods, Taunton.	Carleton F. Sanford, Taunton.

MICHIGAN

Michigan State Bar Association.	Wm. G. Howard, Kalamazoo.	William J. Landman, Grand Rapids.
BAY COUNTY BAR ASSOCIATION.	Edgar A. Cooley, Bay City.	Frank S. Pratt, Bay City.
DETROIT BAR ASSOCIATION.	Wm. J. Gray, Detroit.	George B. Yerkes, Detroit.
GRAND RAPIDS BAR ASSOCIATION.	McGeorge Bundy, Grand Rapids.	Cranson Taggart, Grand Rapids.
HOUGHTON COUNTY BAR ASSOCIATION.	Thos. L. Chadbourne, Houghton.	Gordon R. Campbell, Calumet.
INGHAM COUNTY BAR ASSOCIATION.	Samuel L. Kilbourne, Lansing.	Harry A. Silsbee, Lansing.
IONIA COUNTY BAR ASSOCIATION.	Allen B. Morse, Ionia.	Wm. K. Clute, Ionia.

MICHIGAN—Continued.

NAME.	PRESIDENT.	SECRETARY.
JACKSON COUNTY BAR ASSOCIATION.	Eugene Pringle, Jackson.	George H. Curtis, Jackson.
LENAWEE COUNTY BAR ASSOCIATION.	Clement E. Weaver, Adrian.	Earl C. Michener, Adrian.
MACOMB COUNTY BAR ASSOCIATION.	Dwight N. Lowell, Romeo.	Franz Kuhn, Mt. Clements.
MARQUETTE COUNTY BAR ASSOCIATION.	Dan H. Ball, Marquette.	George P. Brown, Marquette.
MUSKEGON COUNTY BAR ASSOCIATION.	Willard J. Turner, Muskegon.	Alex. Sutherland, Muskegon.
SAGINAW COUNTY BAR ASSOCIATION.	Miles J. Purcell, Saginaw.	Frank Q. Quinn, Saginaw.
WASHTENAW COUNTY BAR ASSOCIATION.	A. J. Sawyer, Ann Arbor.	Arthur Brown, Ann Arbor.

MINNESOTA.

Minnesota State Bar Association.	A. C. Wilkinson, Crookston.	Charles W. Farnham, St. Paul.
BLUE EARTH COUNTY BAR ASSOCIATION.	A. R. Pfair, Sr., Mankota.	Jean A. Flittie, Mankota.
RAMSEY COUNTY BAR ASSOCIATION.	Pierce Butler, St. Paul.	Chas. A. Hart, St. Paul.
RICE COUNTY BAR ASSOCIATION.	Geo. W. Batchelder, Faribault.	(Vacant)
SEVENTH JUDICIAL DISTRICT BAR ASSOCIATION.	John W. Mason, Fergus Falls.	Jas. R. Bennett, Jr., St. Cloud.
STEARNS COUNTY BAR ASSOCIATION.	George McReynolds, St. Cloud.	James R. Bennett, St. Cloud.
WINONA COUNTY BAR ASSOCIATION.	(Vacant)	Wm. B. Anderson, Winona.

MISSISSIPPI.

NAME.	PRESIDENT.	SECRETARY.
Mississippi State Bar Association.	G. D. Shands, University.	S. M. Smith, Lexington.
Aberdeen Bar Association.	E. O. Sykes, Aberdeen.	Q. O. Eckford, Aberdeen.
Adams County Bar Association.	W. C. Martin, Natchez.	J. A. Clinton, Natchez.
Jefferson County Bar Association.	R. W. Campbell, Fayette.	J. E. Torrey, Fayette.

MISSOURI.

Missouri Bar Association.	Robert F. Walker, St. Louis.	R. E. Ball, Kansas City.
Kansas City Bar Association.	Rees Turpin, Kansas City.	Francis E. House, Kansas City.
St. Joseph Bar Association.	Lucien J. Eastin, St. Joseph.	G. L. Zwick, St. Joseph.
Bar Association of St. Louis.	John F. Lee, St. Louis.	Luther Ely Smith, St. Louis.

MONTANA.

Montana Bar Association.	A. C. Gormley, Great Falls.	Edward C. Russel, Helena.
Cascade County Bar Association	Thomas E. Brady, Great Falls.	H. H. Ewing, Great Falls.
Flathead County Bar Association.	G. H. Grubb, Kalispell.	D. F. Smith, Kalispell.
Fourth Judicial District Bar Association.	Frank Woody, Missoula.	Thos. Nelson Marlowe, Missoula.
Helena Bar Association.	F. P. Sterling, Helena.	T. J. Walsh, Helena.
Silver Bow County Bar Association.	Cornelius F. Kelley, Butte.	Lewis A. Smith, Butte.

NEBRASKA.

NAME.	PRESIDENT.	SECRETARY.
Nebraska State Bar Association.	E. C. Calkins, Kearney.	Roscoe Pound, Lincoln.
ADAMS COUNTY BAR ASSOCIATION.	John M. Ragan, Hastings.	J. A. Gardiner, Hastings.
LANCASTER COUNTY BAR ASSOCIATION.	Henry H. Wilson, Lincoln.	Stephen L. Geisthardt, Lincoln.
OMAHA BAR ASSOCIATION.	Harrison C. Brome, Omaha.	Walter P. Thomas, Omaha.

NEW HAMPSHIRE.

Bar Association of the State of New Hampshire.	Samuel C. Eastman, Concord.	Arthur H. Chase, Concord.
BELKNAP COUNTY BAR ASSOCIATION.	Charles C. Rogers, Tilton.	Bertram Blaisdell, Meredith.
BERLIN AND GORHAM BAR ASSOCIATION.	Alfred R. Evans, Gorham.	J. Howard Wight, Berlin.
CARROLL COUNTY BAR ASSOCIATION.	John B. Nash, Conway.	A. M. Rumery, Ossipee.
GRAFTON AND COÖS BAR ASSOCIATION.	Chester B. Jordan, Lancaster.	Geo. F. Rich, Berlin.

NEW JERSEY.

New Jersey State Bar Association.	Allen B. Endicott, Atlantic City.	Albert C. Wall, Jersey City.
ATLANTIC COUNTY BAR ASSOCIATION.	Joseph Thompson, Atlantic City.	C. Arthur Bolts, Atlantic City.
BERGEN COUNTY BAR ASSOCIATION.	R. P. Wortendyke, Hackensack.	Abram DeBaun, Hackensack.
CAMDEN COUNTY BAR ASSOCIATION.	Howard M. Cooper, Camden.	George J. Bergen, Camden.

NEW JERSEY—Continued.

NAME.	PRESIDENT.	SECRETARY.
CUMBERLAND COUNTY BAR ASSOCIATION.	Wheaton Berault, Bridgeton.	George Hampton, Bridgeton.
ESSEX COUNTY BAR ASSOCIATION.	William B. Guild, Newark.	Charles M. Meyers, Newark.
GLOUCESTER COUNTY BAR ASSOCIATION.	John S. Jessup, Woodbury.	Francis B. Davis, Woodbury.
HUDSON COUNTY BAR ASSOCIATION.	E. A. S. Lewis, Jersey City.	Theodore Rurode, Jersey City.
MERCER COUNTY BAR ASSOCIATION.	Bayard Stockton, Trenton.	Huston Dixon, Trenton.
MONMOUTH COUNTY BAR ASSOCIATION.	(Vacant).	James Steen, Eatontown.
BAR ASSOCIATION OF MORRIS COUNTY.	Henry C. Pitney, Morris.	Irving E. Salmon, Morris.
PASSAIC COUNTY BAR ASSOCIATION.	George S. Hilton, Paterson.	James G. Blauvelt, Paterson.
SOMERSET COUNTY BAR ASSOCIATION.	James L. Griggs, Somerville.	M. M. Steele, Somerville.
BAR ASSOCIATION OF UNION COUNTY.	Craig A. Marsh, Elizabeth.	Fred Hyer, Elizabeth.

NEW MEXICO TERRITORY.

New Mexico Bar Association.	W. A. Hawkins, Alamagordo.	Richard H. Hanno, Santa Fé.

NEW YORK.

New York State Bar Association.	Joseph H. Choate, New York.	Frederick E. Wadhams, Albany.
ALBANY COUNTY BAR ASSOCIATION.	Charles J. Buchanan, Albany.	Daniel J. Dugan, Albany.
AMSTERDAM BAR ASSOCIATION.	Charles S. Nisbet, Amsterdam.	Harry Howard, Amsterdam.

NEW YORK—Continued.

NAME.	PRESIDENT.	SECRETARY.
ASSOCIATION OF THE BAR OF THE BOROUGH OF BRONX.	J. Homer Hildreth, New York.	Henry K. Davis, New York.
BROOKLYN BAR ASSOCIATION.	James D. Bell, Brooklyn.	Herman H. Baker, Brooklyn.
CATTARAUGUS COUNTY BAR ASSOCIATION.	E. A. Nash, Cattaraugus.	Dana L. Jewell, Olean.
DELAWARE COUNTY BAR ASSOCIATION.	James R. Baumes, Sidney.	Marion M. Palmer, Delhi.
ERIE COUNTY BAR ASSOCIATION.	George Clinton, Buffalo.	U. S. Thomas, Buffalo.
BAR ASSOCIATION OF THE CITY OF GLOVERSVILLE.	William C. Mills, Gloversville.	Jeremiah Wood, Gloversville.
GREENE COUNTY BAR ASSOCIATION.	Emory A. Chase, Catskill.	Percy W. Decker, Catskill.
HERKIMER COUNTY BAR ASSOCIATION.	Charles Bell, Herkimer.	Mabel J. Wood, Herkimer.
BAR ASSOCIATION OF THE CITY OF JAMESTOWN.	Frank W. Stevens, Jamestown.	Arthur W. Kettle, Jamestown.
JEFFERSON COUNTY BAR ASSOCIATION.	Charles H. Walts, Watertown,	Charles A. Phelps, Watertown.
MADISON COUNTY BAR ASSOCIATION.	Gerrit A. Forbes, Canastota.	B. Fitch Tompkins, Morrisville.
NASSAU COUNTY BAR ASSOCIATION.	Edgar Jackson, Baldwin.	William Clark Roe, Thomaston.
ASS'N OF THE BAR OF THE CITY OF NEW YORK.	Elihu Root, New York.	Silas B. Brownell, New York.
ONONDAGA COUNTY BAR ASSOCIATION.	Theodore E. Hancock, Syracuse.	Ernest I. Edgcomb, Syracuse.

NEW YORK—Continued.

NAME.	PRESIDENT.	SECRETARY.
OSWEGO COUNTY BAR ASSOCIATION.	H. L. Howe, Oswego.	E. J. Mizen, Oswego.
QUEENS COUNTY BAR ASSOCIATION.	Henry L. Bogert, Flushing.	Morris L. Strauss, College Point.
ROCHESTER BAR ASSOCIATION.	Jonas P. Varnum, Rochester.	Frederick P. Kimball. Rochester.
ROCKLAND COUNTY BAR ASSOCIATION.	Abram A. Demarest, Nyack.	George A. Wyre, Nyack.
ST. LAWRENCE COUNTY BAR ASSOCIATION.	Ledyard P. Hale, Canton.	George H. Bowers, Canton.
SCHENECTADY COUNTY BAR ASSOCIATION.	Samuel W. Jackson, Schenectady.	Marvin H. Strong, Schenectady.
STEUBEN COUNTY BAR ASSOCIATION.	John F. Little, Bath.	Henry V. Pratt, Wayland.
ULSTER COUNTY BAR ASSOCIATION.	Amos Van Etten, Kingston.	Roscoe Irwin, Kingston.
WAYNE COUNTY BAR ASSOCIATION.	Charles McLouth, Palmyra.	Clyde W. Knapp, Lyons.
WESTCHESTER COUNTY BAR ASSOCIATION.	J. M. Wainwright, Rye.	J. Sumner Burnstine, Yonkers.
YATES COUNTY BAR ASSOCIATION.	John H. Butler, Penn Yan.	H. B. Harpending, Dundee.

NORTH CAROLINA.

North Carolina Bar Association.	Clement Manley, Winston-Salem.	J. Crawford Biggs, Durham.

NORTH DAKOTA.

Bar Association of North Dakota.	H. A. Libby, Park River.	W. H. Thomas, Leeds.
BARNES COUNTY BAR ASSOCIATION.	Herman Winterer, (1904) Valley City.	Martin Remmen, (1904) Valley City.

NORTH DAKOTA—Continued.

NAME.	PRESIDENT.	SECRETARY.
CASS COUNTY BAR ASSOCIATION.	E. H. Smith, Fargo.	D. B. Holt, Fargo.
GRAND FORKS COUNTY BAR ASSOCIATION.	James H. Bosard, Grand Forks.	Tracy R. Bangs, Grand Forks.
BAR ASSOCIATION OF THE SECOND JUDICIAL DISTRICT OF NORTH DAKOTA.	John Burke, (1904) Devil's Lake.	W. H. Thomas, (1904) Leeds.

OHIO.

Ohio State Bar Association.	Edward Kibler, Newark.	Edward B. McCarter, Columbus.
AKRON BAR ASSOCIATION.	Orlando Wilcox, Akron.	T. E. Raley, Akron.
ALLEN COUNTY BAR ASSOCIATION.	John W. Roby, Lima.	Kent W. Hughes, Lima.
ASHLAND COUNTY BAR ASSOCIATION.	H. A. Mykrantz, Ashland.	F. N. Patterson, Ashland.
ATHENS COUNTY BAR ASSOCIATION.	L. M. Jewett, Athens.	J. P. Wood, Jr., Athens.
AUGLAIZE COUNTY LAW LIBRARY AND BAR ASSOCIATION.	L. N. Blume, (1904) Wapakoneta.	F. M. Horn, (1904) Wapakoneta.
BUTLER COUNTY BAR ASSOCIATION.	R. N. Shotts, Hamilton.	Robert J. Shank, Hamilton
CARROLL COUNTY BAR ASSOCIATION.	Robert E. McDonald, Carrollton.	J. H. Blyth, Carrollton.
LAW AND LIBRARY ASSOCIATION OF CHILLICOTHE.	R. R. Freeman, (1904) Chillicothe.	Frank P. Hinton, (1904) Chillicothe.
CLARK COUNTY BAR ASSOCIATION.	John L. Plummer, Springfield.	S. C. Olinger, Springfield.

OHIO—Continued.

NAME.	PRESIDENT.	SECRETARY.
CLEVELAND BAR ASSOCIATION.	(Vacant)	T. H. Bushnell, Cleveland.
COLUMBIANA COUNTY BAR ASSOCIATION, SOUTHERN.	P. M. Smith, Wellsville.	Walter B. Hill, East Liverpool.
COSHOCTON COUNTY BAR ASSOCIATION.	J. M. Compton, Coshocton.	R. B. McDermott, Coshocton.
FRANKLIN COUNTY BAR ASSOCIATION.	George S. Peters, Columbus.	Fred H. Schoedinger, Columbus.
GALLIA COUNTY BAR ASSOCIATION.	Chas. H. D. Summers, Gallipolis.	F. E. Cherrington, Gallipolis.
FINDLAY BAR ASSOCIATION.	James A. Bope, Findlay.	John E. Priddy, Findlay.
HARRISON COUNTY BAR ASSOCIATION.	David Cunningham, Cadiz.	William T. Perry, Cadiz.
HENRY COUNTY BAR ASSOCIATION.	Martin Knapp, Napoleon.	James P. Ragan, Napoleon.
JEFFERSON COUNTY BAR ASSOCIATION.	Emmett E. Erskine, Steubenville.	Walter C. Taylor, Steubenville.
KNOX COUNTY BAR ASSOCIATION.	H. H. Greer, Mt. Vernon.	W. E. Grant, Mt. Vernon.
LAKE COUNTY BAR ASSOCIATION.	G. N. Tuttle, Painesville.	Elbert F. Blakely, Painesville.
LICKING COUNTY BAR ASSOCIATION.	Charles H. Ribler, Newark.	C. W. Seward, Newark.
LORAIN COUNTY BAR ASSOCIATION.	C. W. Johnston, Elyria.	H. W. Ingersoll, Elyria.
LUCAS COUNTY BAR ASSOCIATION.	E. H. Rhoades, (1904) Toledo.	F. B. Willard, (1904) Toledo.

OHIO—Continued.

NAME.	PRESIDENT.	SECRETARY.
MAHONING COUNTY BAR ASSOCIATION.	Thos. W. Sanderson, Youngstown.	M. C. McNab, Youngstown.
MARION COUNTY BAR ASSOCIATION.	William Z. Davis, Columbus.	William E. Scofield, Marion.
MIAMI COUNTY BAR ASSOCIATION.	George S. Long, Troy.	F. C. Goodrich, Troy.
MONTGOMERY COUNTY BAR ASSOCIATION.	Edwin P. Matthews, Dayton.	R. G. Corwin, Dayton.
PAULDING COUNTY BAR ASSOCIATION.	W. H. Phillips, (1904) Paulding.	O. W. Dossart, (1904) Paulding.
PREBLE COUNTY BAR AND LAW LIBRARY ASSOCIATION.	Elam Fisher, Eaton.	Edith O. Hart, Eaton.
PUTNAM COUNTY BAR ASSOCIATION.	J. J. Moore, (1904) Ottawa.	J. P. Leisure, (1904) Ottawa.
RICHLAND COUNTY BAR ASSOCIATION.	S. G. Cummings, Mansfield.	Jesse E. LaDow, Mansfield.
SANDUSKY COUNTY BAR ASSOCIATION.	Thomas P. Finefrock, Fremont.	Basil Meek, Fremont.
SENECA COUNTY BAR ASSOCIATION.	Nelson L. Brewer, Tiffin.	Milton Saylor, Tiffin.
STARK COUNTY BAR ASSOCIATION.	James J. Clark, Canton.	Atlee Pomerene, Canton.
TRUMBULL COUNTY BAR AND LAW LIBRARY ASSOCIATION.	H. E. Stewart, Warren.	C. M. Wilkins, Warren.
UNION COUNTY BAR ASSOCIATION.	Leonidas Piper, Marysville.	J. H. Kinkade, Marysville.
WASHINGTON COUNTY BAR ASSOCIATION.	A. D. Follett, Marietta.	R. A. Underwood, Marietta.

OHIO—Continued.

NAME.	PRESIDENT.	SECRETARY.
WARREN COUNTY BAR ASSOCIATION.	J. A. Runyan, Lebanon.	George W. Stanley, Lebanon.
WILLIAMS COUNTY LAW LIBRARY AND BAR ASSOCIATION.	C. A. Bowersox, Bryan.	John B. White, Bryan.

OKLAHOMA AND INDIAN TERRITORY.

The Bar Association of Oklahoma and Indian Territory.	S. H. Harris, Perry.	T. H. Kellogg, South McAlester.

OREGON.

Oregon Bar Association.	William M. Coke, Portland.	Robert Treat Platt, Portland.
CLACKAMAS COUNTY BAR ASSOCIATION.	Gordon E. Hayes, Oregon City.	W. S. U'Ren, Oregon City.
MARION COUNTY BAR ASSOCIATION.	F. T. Wrightman, Salem.	W. E. Richardson, Salem.

PENNSYLVANIA.

Pennsylvania Bar Association.	J. B. Calahan, Jr., Philadelphia.	William H. Staake, Philadelphia.
ADAMS COUNTY BAR ASSOCIATION.	Wm. McClean, Gettysburg.	W. Clarence Sheely, Gettysburg.
ALLEGHENY COUNTY BAR ASSOCIATION.	Thomas Herriott, Pittsburg.	Harry G. Tinker, Pittsburg.
ARMSTRONG COUNTY BAR ASSOCIATION.	Ross Reynolds, Kittanning.	Floy C. Jones, Kittanning.
LAW ASSOCIATION OF BEAVER COUNTY	Frank H. Laird, Beaver.	Forest G. Moorhead, Beaver.
BERKS COUNTY BAR ASSOCIATION.	Jacob S. Livingood, Reading.	Thomas K. Leidy, Reading.

PENNSYLVANIA—Continued.

NAME.	PRESIDENT.	SECRETARY.
BLAIR COUNTY BAR ASSOCIATION.	Adie H. Stevens, (1904) Tyrone.	Henry A. McFadden, (1904) Hollidaysburg.
BRADFORD COUNTY BAR ASSOCIATION.	R. A. Mercur, Towanda.	Stephen H. Smith, Towanda.
BUCKS COUNTY BAR ASSOCIATION.	Harman Yerkes, Doylestown.	Harvey S. Kiser, Doylestown.
BUTLER COUNTY BAR ASSOCIATION.	J. D. McJunkin, Butler.	J. D. Marshall, Butler.
CAMBRIA BAR ASSOCIATION.	W. Horace Rose, Johnstown.	H. H. Myers, Ebensburg.
CAMERON COUNTY BAR ASSOCIATION.	J. C. Johnson, Emporium.	C. W. Shaffer, Emporium.
CARBON COUNTY BAR ASSOCIATION.	Edw. H. Mulhearn, Mauch Chunk.	Frank P. Sharkey, Mauch Chunk.
CENTRE COUNTY BAR ASSOCIATION.	A. O. Furst, Bellefonte.	J. C. Meyer, Bellefonte.
CHESTER COUNTY LAW AND MISCELLANEOUS LIBRARY ASSOCIATION.	William M. Hayes, West Chester.	Thomas Lack, West Chester.
CLARION BAR ASSOCIATION.	David Lawson, Clarion.	W. D. Burns, Clarion.
CLEARFIELD COUNTY LAW ASSOCIATION.	Allison O. Smith, Clearfield.	Benjamin F. Chase, Clearfield.
CLINTON COUNTY BAR ASSOCIATION.	C. A. Mayer, Lock Haven.	E. P. Geary, Lock Haven.
COLUMBIA COUNTY BAR ASSOCIATION.	John G. Freeze, (1904) Bloomsburg.	George E. Elwell, (1904) Bloomsburg.
CRAWFORD COUNTY BAR ASSOCIATION.	Manley O. Brown, Meadville.	John O. McClintock, Meadville.
CUMBERLAND COUNTY BAR ASSOCIATION.	Robt. M. Henderson, (1904) Carlisle.	Conrad Hambleton, (1904) Carlisle.

PENNSYLVANIA—Continued.

NAME.	PRESIDENT.	SECRETARY.
DAUPHIN COUNTY BAR ASSOCIATION.	Ben J. Nead, Harrisburg.	William M. Hargest, Harrisburg.
DELAWARE COUNTY BAR ASSOCIATION.	Geo. E. Darlington, Media.	Garnett Pendleton, Chester.
ELK COUNTY BAR ASSOCIATION.	Harry Alvan Hall, Ridgway.	Eugene H. Baird, Ridgway.
ERIE COUNTY BAR ASSOCIATION.	C. L. Baker, Erie.	W. S. Carroll, Erie.
FAYETTE COUNTY BAR ASSOCIATION.	James R. Cray, Uniontown.	George Patterson, Uniontown.
FOREST BAR ASSOCIATION.	Samuel D. Irwin, Tionesta.	T. F. Ritchey, Tionesta.
FRANKLIN COUNTY BAR ASSOCIATION.	O. C. Bowers, Chambersburg.	Loren A. Culp, Chambersburg.
FULTON COUNTY BAR ASSOCIATION.	J. Nelson Sipes, (1904) McConnellsburg.	W. Scott Alexander, (1904) McConnellsburg.
HUNTINGDON BAR ASSOCIATION.	J. R. Simpson, Huntingdon.	Jas. S. Woods, Huntingdon.
INDIANA COUNTY LAW ASSOCIATION.	J. N. Banks, (1904) Indiana.	Elder Peelor, (1904) Indiana.
JEFFERSON COUNTY BAR ASSOCIATION.	E. H. Clark, Brookville.	W. W. Conrad, Brookville.
JUNIATA COUNTY BAR ASSOCIATION.	B. F. Burchfield, Mifflintown.	F. M. M. Pennell, Mifflintown.
LACKAWANNA LAW AND LIBRARY ASSOCIATION.	Samuel B. Price, Scranton.	Herman Osthaus, Scranton.
LANCASTER BAR ASSOCIATION.	H. M. North, Columbia.	John W. Appel, Lancaster.
LAWRENCE COUNTY BAR ASSOCIATION.	E. N. Baer, Newcastle.	R. L. Wallace, Newcastle

PENNSYLVANIA—Continued.

NAME.	PRESIDENT.	SECRETARY.
LEBANON COUNTY BAR ASSOCIATION.	Thomas H. Capp, (1904) Lebanon.	Charles M. Zerbe, (1904) Lebanon.
LEHIGH COUNTY BAR ASSOCIATION.	Edward Harvey, Allentown.	Francis G. Lewis, Allentown.
LYCOMING LAW ASSOCIATION.	Herbert T. Ames, Williamsport.	James C. Watson, Williamsport.
MCKEAN COUNTY BAR ASSOCIATION.	Edwin L. Keenan, Smethport.	Guy B. Mayo, Smethport.
MERCER COUNTY BAR ASSOCIATION.	S. R. Mason, (1904) Mercer.	J. C. Miller, (1904) Mercer.
MIFFLIN COUNTY BAR ASSOCIATION.	David W. Woods, Lewistown.	Michael M. McLaughlin, Lewistown.
MONTGOMERY COUNTY BAR ASSOCIATION.	George W. Rogers, Norristown.	Wm. F. Dannehower, Norristown.
NORTHAMPTON COUNTY BAR ASSOCIATION.	E. H. Lehr, Easton.	David M. Bachman, Easton.
NORTHUMBERLAND COUNTY LAW ASSOCIATION.	W. H. M. Oram, Shamokin.	Harry S. Knight, Sunbury.
PERRY COUNTY BAR ASSOCIATION.	W. N. Seibert, New Bloomfield.	James M. Barnett, New Bloomfield.
LAW ASSOCIATION OF PHILADELPHIA.	Samuel Dickson, Philadelphia.	William C. Ferguson, Philadelphia.
LAWYERS' CLUB OF PHILADELPHIA.	Francis Shunk Brown, Philadelphia.	Henry C. Thompson, Jr., Philadelphia.
POTTER COUNTY BAR ASSOCIATION.	John Ormerod, Coudersport.	A. N. Crandell, Coudersport.
LAW ASSOCIATION OF SCHUYLKILL COUNTY	Guy E. Farquhar, Pottsville.	W. K. Woodbury, Pottsville.
SNYDER COUNTY BAR ASSOCIATION.	A. W. Potter, Selin's Grove.	Jay G. Weiser, Middleburg.

PENNSYLVANIA—Continued.

NAME.	PRESIDENT.	SECRETARY.
SOMERSET COUNTY BAR ASSOCIATION.	A. H. Coffroth, Somerset.	A. C. Holbert, Somerset.
SULLIVAN COUNTY BAR ASSOCIATION.	Thomas J. Ingham, La Porte.	W. P. Shoemaker, La Porte.
SUSQUEHANNA COUNTY LEGAL ASSOCIATION.	William M. Post, Montrose.	H. A. Denney, Montrose.
TIOGA COUNTY BAR ASSOCIATION.	S. F. Channell, Wellsboro.	R. K. Young, Wellsboro.
UNION COUNTY BAR ASSOCIATION.	J. C. Bucher, Lewisburg.	Andrew A. Leiser, Jr., Lewisburg.
VENANGO COUNTY BAR ASSOCIATION.	James D. Hancock, Franklin.	N. F. Osmer, Franklin.
WARREN COUNTY BAR ASSOCIATION.	D. I. Ball, Warren.	C. E. Bordwell, Warren.
WASHINGTON BAR ASSOCIATION.	Norman E. Clark, Washington.	R. W. Knox, Washington.
WAYNE BAR ASSOCIATION.	Henry Wilson, (1904) Honesdale.	R. M. Stocker, (1904) Honesdale.
WAYNESBURG BAR ASSOCIATION.	J. B. Donley, Waynesburg.	James J. Purman, Waynesburg.
WESTMORELAND LAW ASSOCIATION.	D. S. Atkinson, Greensburg.	J. E. B. Cunningham, Greensburg.
WILKES BARRE LAW AND LIBRARY ASSOCIATION.	Alex. Farnham, Wilkes Barre.	Joseph D. Coons, Wilkes Barre.
WYOMING COUNTY BAR ASSOCIATION.	W. E. Little, (1904) Tunkhannock.	H. Stanley Harding, (1904) Tunkhannock.
YORK COUNTY BAR ASSOCIATION.	George S. Schmidt, York.	John L. Rouse, York.

RHODE ISLAND.

NAME.	PRESIDENT.	SECRETARY.
The Rhode Island Bar Association.	Francis Colwell, Providence.	Howard B. Gosham, Providence.
PROVIDENCE BAR CLUB.	Dexter B. Potter, Providence.	Lorin M. Cook, Providence.

SOUTH CAROLINA.

South Carolina Bar Association.	Robert W. Shand, Columbia.	Hunter A. Gibbes, Columbia.

SOUTH DAKOTA.

South Dakota Bar Association.	A. W. Burtt, Huron.	Jno. H. Voorhees, Sioux Falls.
BEADLE COUNTY BAR ASSOCIATION.	A. W. Burtt, Huron.	(Appointed at meetings)
BROWN COUNTY BAR ASSOCIATION.	J. H. Hauser, (1904) Aberdeen.	Charles M. Stevens, (1904) Aberdeen.
DAVISON COUNTY BAR ASSOCIATION.	J. L. Hannett, Mitchell.	Herbert E. Hitchcock, Mitchell.
MINNEHAHA COUNTY BAR ASSOCIATION.	Hosmer H. Keith, Sioux Falls.	Jno. H. Voorhees, Sioux Falls.

TENNESSEE.

Bar Association of Tennessee.	Edward T. Sanford, Knoxville.	Robert Lusk, Nashville.
CHATTANOOGA BAR AND LAW LIBRARY ASSOCIATION.	T. H. Cooke, Chattanooga.	W. H. Payne, Jr., Chattanooga.
FRANKLIN COUNTY BAR ASSOCIATION.	George E. Banks, Winchester.	Dick Taylor, Winchester.
LEWISBURG BAR ASSOCIATION.	J. L. Marshall, (1904) Lewisburg.	W. M. Carter, (1904) Lewisburg.

TENNESSEE—Continued.

NAME.	PRESIDENT.	SECRETARY.
MEMPHIS BAR ASSOCIATION.	T. K. Riddick, Memphis.	A. B. Pitman, Memphis.
MURFREESBORO BAR ASSOCIATION.	Horace E. Palmer, Murfreesboro.	Jesse W. Sparks, Murfreesboro.

TEXAS.

Texas Bar Association.	H. M. Garwood, Houston.	A. E. Wilkinson, Austin.
AUSTIN BAR ASSOCIATION.	John Dowell, Austin.	J. W. Maxwell, Austin.

UTAH.

State Bar Association of Utah.	Parley L. Williams, Salt Lake City.	J. Walcott Thompson, Salt Lake City.

VERMONT.

Vermont Bar Association.	H. Henry Powers, Morrisville.	John H. Mimms, St. Albans.

VIRGINIA.

Virginia State Bar Association.	Archer A. Phlegar, Christiansburg.	John B. Minor, Richmond.
DANVILLE BAR ASSOCIATION.	Julian Meade, Danville,	D. P. Withers, Danville.
LEE COUNTY BAR ASSOCIATION.	C. T. Duncan, (1904) Jonesville.	L. T. Hyatt, (1904) Jonesville.
NEWPORT NEWS BAR ASSOCIATION.	R. G. Bickford, Newport News.	W. C. Stuart, Newport News.
NORFOLK AND PORTSMOUTH BAR ASSOCIATION.	W. W. Old, Norfolk.	T. Catesby Jones, Norfolk.
BAR ASSOCIATION OF THE CITY OF RICHMOND.	Henry Taylor, Jr., Richmond.	John H. Gray, Richmond.
BAR ASSOCIATION OF ROANOKE CITY.	C. A. McHugh, (1904) Roanoke.	A. B. Antrim, (1904) Roanoke.

WASHINGTON.

NAME.	PRESIDENT.	SECRETARY.
Washington State Bar Association.	Francis H. Brownell, Everett.	C. Will Shaffer, Olympia.
CHELAN COUNTY BAR ASSOCIATION.	Kirk Whited, Wenatchee.	Fred Reeves, Wenatchee.
KING COUNTY BAR ASSOCIATION.	Orange Jacobs, Seattle.	John Arthur, Seattle.
PIERCE COUNTY BAR ASSOCIATION.	Theodore L. Stiles, Tacoma.	James M. Harris, Tacoma.
SKAGIT COUNTY BAR ASSOCIATION.	J. E. Shranger, Mt. Vernon.	E. P. Barker, Mt. Vernon.
SNOHOMISH COUNTY BAR ASSOCIATION.	B. E. Padgett, Everett.	E. W. Bundy, Everett.
BAR ASSOCIATION OF SPOKANE COUNTY.	A. G. Avery, Spokane.	Frederick W. Dewart, Spokane.
THURSTON COUNTY BAR ASSOCIATION.	T. N. Allen, Olympia.	Chas. D. King, Olympia.
WALLA WALLA BAR ASSOCIATION.	C. C. Gose, Walla Walla.	T. A. Paul, Walla Walla.
WHATCOM COUNTY BAR ASSOCIATION.	H. A. Fairchild, Whatcom.	Lin H. Hadley, New Whatcom.
WHITMAN COUNTY BAR ASSOCIATION.	J. N. Pickrell, Colfax.	H. M. Love, Colfax.

WEST VIRGINIA.

West Virginia Bar Association.	W. W. Brannon, (1904) Weston.	Nelson C. Hubbard, (1904) Wheeling.
FAYETTE COUNTY BAR ASSOCIATION.	C. W. Dillon, (1904) Fayetteville.	R. T. Hubard, (1904) Fayetteville.
LEWIS COUNTY BAR ASSOCIATION.	W. W. Brannon, (1904) Weston.	W. B. McGary, (1904) Weston.

WEST VIRGINIA—Continued.

NAME.	PRESIDENT.	SECRETARY.
MARION COUNTY BAR ASSOCIATION.	Wm. S. Haymond, Fairmont.	W. H. Conaway, Fairmont.
MARSHALL COUNTY BAR ASSOCIATION.	J. C. Simpson, Moundeville.	A. L. Hooton, Moundeville.
MONONGALIA COUNTY BAR ASSOCIATION.	C. B. Dille, Morgantown.	John Shriver, Morgantown.
OHIO COUNTY BAR ASSOCIATION.	James W. Ewing, Wheeling.	William E. Krupp, Wheeling.
UPSHUR COUNTY BAR ASSOCIATION.	A. M. Poundstone, Buckhannon.	W. B. Nutter, Buckhannon.
WETZEL COUNTY BAR ASSOCIATION.	Wm. McG. Hall, (1904) New Martinsville.	Lloyd V. McIntire, (1904) New Martinsville.
WOOD COUNTY BAR ASCIATION.	C. D. Merrick, (1904) Parkersburg.	E. R. Kingsley, (1904) Parkersburg.

WISCONSIN.

State Bar Association of Wisconsin.	A. A. Jackson, (1904) Janesville.	Cornelius I. Haring, (1904) Milwaukee.
DANE COUNTY LEGAL ASSOCIATION.	Burr W. Jones, Madison.	John A. Aylward, Madison.
EAU CLAIRE COUNTY BAR ASSOCIATION.	Ira B. Bradford, Augusta.	F. R. Farr, Eau Claire.
LA CROSSE BAR ASSOCIATION.	Benjamin F. Bryant, La Crosse.	John Brindley, La Crosse.
MILWAUKEE BAR ASSOCIATION.	W. J. McElroy, Milwaukee.	George E. Balthorn, Milwaukee.
ROCK COUNTY BAR ASSOCIATION.	William Smith, Janesville.	Arthur M. Fisher, Janesville.
WAUPACA COUNTY BAR ASSOCIATION.	F. M. Guernsey, Clintonville.	Irving P. Lord, Waupaca.

MEMORANDUM OF SUBJECTS REFERRED TO COMMITTEES.

Executive Committee.

Proposed by-law creating Committee on Taxation. (See pages 13, 14, 126 to 128, 129 to 131.)

Resolution in regard to printing Alfred Hemenway's address. (See page 46.)

Resolution in regard to formation of an International Association of Lawyers. (See pages 88 to 90.)

Proposed by-law requiring two-thirds vote to approve legislation. (See page 131.)

Standing Committees.

Jurisprudence and Law Reform.

Proposed bill to authorize special bench warrants in certain criminal cases. (See pages 8 and 23.)

Classification of the law in conjunction with the Special Committee on Classification of the Law. (See page 87.)

Legal Education and Admissions to the Bar.

Degrees conferred by law schools in the United States. (See page 10.)

International Law.

1905 report not acted upon. (See pages 45 and 442.)

Obituaries.

To report names of deceased members. (See pages 83 and 457.)

Patent, Trade-Mark and Copyright Law.

To secure the passage of bill to establish a Court of Patent Appeals. (See pages 78 and 465.)

Resolution deprecating limiting application of patent laws. (See pages 79 and 80.)

To secure the passage of bill for extension of patents. (See pages 82 and 479.)

Insurance Law.

Constitutionality of federal supervision. (See resolution, page 101; debate, pages 92 to 123; report of 1905 committee, pages 492 to 523.)

Uniform State Laws.

Situs of personal property for purpose of taxation. (See pages 77 and 491, and 1904 report, pages 20 to 27.)

SPECIAL COMMITTEES.

Classification of the Law.

Subject referred to the committee in conjunction with the Committee on Jurisprudence and Law Reform. (See page 87.)

Indian Legislation.

Report received and filed. (See pages 87 and 524.)

Penal Laws and Prison Discipline.

No report in 1905. (See page 87.)

Federal Courts.

No report in 1905. (See page 87.)

Industrial Property and International Negotiation.

No report in 1905. (See page 88.)

Title to Real Estate.

Report in 1905 and committee continued. (See pages 76 and 525.)

Code of Legal Ethics.

To report on advisability and practicability of adoption of a code of professional ethics.

Delegates to Copyright Congress.

To represent American Bar Association at that Congress. (See pages 81, 82 and 484.)

ANNUAL ADDRESSES.

YEAR.	NAME.	SUBJECT.
1879.	EDWARD J. PHELPS,	John Marshall.
1880.	CORTLANDT PARKER,	Alexander Hamilton and William Paterson.
1881.	CLARKSON N. POTTER,	Roger Brooke Taney.
1882.	ALEXANDER R. LAWTON,	James Lewis Petigru and Hugh Swinton Legaré.
1883.	JOHN W. STEVENSON,	James Madison.
1884.	JOHN F. DILLON,	American Institutions and Laws.
1885.	GEORGE W. BIDDLE,	An Inquiry into the Proper Mode of Trial.
1886.	THOMAS J. SEMMES,	The Civil Law and Codification.
1887.	HENRY HITCHCOCK,	General Corporation Laws.
1888.	GEORGE HOADLY,	Codification.
1889.	SIMEON E. BALDWIN,	The Centenary of Modern Government.
1890.	JAMES C. CARTER,	The Ideal and the Actual in the Law.
1891.	ALFRED RUSSELL,	Avoidable Causes of Delay and Uncertainty in our Courts.
1892.	J. RANDOLPH TUCKER,	British Institutions and American Constitutions.
1893.	HENRY B. BROWN,	The Distribution of Property.
1894.	MOORFIELD STOREY,	The American Legislature.
1895.	WILLIAM H. TAFT,	Recent Criticism of the Federal Judiciary.
1896.	LORD RUSSELL OF KILLOWEN, Lord Chief Justice of England,	International Law and Arbitration.
1897.	JOHN W. GRIGGS,	Lawmaking.
1898.	JOSEPH H. CHOATE,	Trial by Jury.
1899.	WILLIAM LINDSAY,	Power of the United States to Acquire and Govern Foreign Territory.
1900.	GEORGE R. PECK,	The March of the Constitution.

YEAR.	NAME.	SUBJECT.
1901.	CHARLES E. LITTLEFIELD,	The Insular Cases.
1902.	JOHN G. CARLISLE,	The Power of the United States to Acquire and Govern Territory.
1903.	LE BARON B. COLT,	Law and Reasonableness.
1904.	AMOS M. THAYER,	The Louisiana Purchase; Its Influence and Development Under American Rule.
1905.	ALFRED HEMENWAY,	The American Lawyer.

PAPERS READ.

YEAR.	NAME.	SUBJECT.
1879.	CALVIN G. CHILD,	Shifting Uses, from the Standpoint of the Nineteenth Century.
1879.	HENRY HITCHCOCK,	The Inviolability of Telegrams.
1879.	GEORGE A. MERCER,	The Relationship of Law and National Spirit.
1880.	HENRY E. YOUNG,	Sunday Laws.
1880	GEORGE TUCKER BISPHAM,	Rights of Material Men and Employees of Railroad Companies as against Mortgagees.
1880.	HENRY D. HYDE,	Extradition between the States.
1881.	THOMAS M. COOLEY,	The Recording Laws of the United States.
1881.	SAMUEL WAGNER,	The Advantages of a National Bankrupt Law.
1882.	GUSTAVE KOERNER,	The Doctrine of Punitive Damages and its Effect on the Ethics of the Profession.
1882.	U. M. ROSE,	Titles of Statutes.
1882.	THOMAS J. SEMMES,	The Civil Law as Transplanted in Louisiana.
1883.	ROBERT G. STREET,	How far Questions of Public Policy may enter into Judicial Decisions.
1883.	JOHN M. SHIRLEY,	The Future of our Profession.
1883.	SIMEON E. BALDWIN,	Preliminary Examinations in Criminal Proceedings.
1883.	SEYMOUR D. THOMPSON,	Abuses of the Writ of Habeas Corpus.
1884.	ANDREW ALLISON,	The Rise and Probable Decline of Private Corporations in America.
1884.	M. DWIGHT COLLIER,	Stock Dividends and their Restraint.
1884.	SIMON STERNE,	The Prevention of Defective and Slipshod Legislation.

YEAR.	NAME.	SUBJECT.
1885.	RICHARD M. VENABLE,	Partition of Powers between the Federal and State Governments.
1885.	REUBEN C. BENTON,	The Distinction between Legislative and Judicial Functions.
1885.	FRANCIS RAWLE,	Car Trust Securities.
1886.	JOHNSON T. PLATT,	The Opportunity for the Development of Jurisprudence in the United States.
1886.	WILLIAM P. WELLS,	The Dartmouth College Case and Private Corporations.
1886.	JOHN F. DILLON,	Law Reports and Law Reporting
1887.	HENRY JACKSON,	Indemnity the Essence of Insurance; Causes and Consequences of Legislation qualifying this Principle.
1887.	JAMES K. EDSALL,	The Granger Cases and the Police Power.
1888.	J. RANDOLPH TUCKER,	Congressional Power over Inter-State Commerce.
1888.	J. M. WOOLWORTH,	Jurisprudence Considered as a Branch of the Social Science.
1889.	HENRY B. BROWN,	Judicial Independence.
1889.	WALTER B. HILL,	The Federal Judicial System.
1890.	HENRY C. TOMPKINS,	The Necessity for Uniformity in the Laws Governing Commercial Paper.
1890.	DWIGHT H. OLMSTEAD,	Land Transfer Reform.
1890.	JOHN F. DUNCOMBE,	Election Laws.
1891.	FREDERICK N. JUDSON,	Liberty of Contract under the Police Power.
1891.	W. B. HORNBLOWER,	The Legal Status of the Indian.
1892.	JOHN W. CARY,	Limitations of the Legislative Power in Respect to Personal Rights and Private Property.
1892.	WILLIAM L. SNYDER,	The Problem of Uniform Legislation.
1893.	HENRY WADE ROGERS,	The Treaty-Making Power.
1893.	W. W. MCFARLAND,	The Evolution of Jurisprudence.

YEAR.	NAME.	SUBJECT.
1893.	U. M. Rose,	Trusts and Strikes.
1894.	Hampton L. Carson,	Great Dissenting Opinions.
1894.	Charles Claflin Allen,	Injunction and Organized Labor.
1895.	William Wirt Howe,	Historical Relation of the Roman Law to the Law of England.
1895.	Richard Wayne Parker,	The Tyrannies of Free Government, or the Modern Scope of Constitutional Guarantees of Liberty and Property.
1896.	James M. Woolworth,	The Development of the Law of Contracts.
1896.	Joseph B. Warner,	The Responsibilities of the Lawyer.
1896.	Montague Crackanthorpe, of the English Bar,	The Uses of Legal History.
1897.	Robert Mather,	Constitutional Construction and the Commerce Clause.
1897.	Eugene Wambaugh,	The Present Scope of Government.
1898.	Lyman D. Brewster,	Uniform State Laws.
1898.	L. C. Krauthoff,	Malice as an Ingredient of a Civil Cause of Action.
1899.	Edward Q. Keasbey,	New Jersey and the Great Corporations.
1899.	Sir Wm. Rann Kennedy, Judge of the English High Court,	The State Punishment of Crime.
1900.	Edward Avery Harriman,	*Ultra Vires* Corporation Leases.
1900.	John Bassett Moore,	A Hundred Years of American Diplomacy.
1900.	Richard M. Venable,	Growth or Evolution of Law.
1901.	Richard C. Dale,	Implied Limitations upon the Exercise of the Legislative Power.
1901.	Henry D. Estabrook,	The Lawyer, Hamilton.
1901.	Charles J. Hughes, Jr.,	The Evolution of Mining Law.
1901.	Platt Rogers,	The Law of New Conditions—Illustrated by the Law of Irrigation.

YEAR.	NAME.	SUBJECT.
1902.	M. D. CHALMERS, Parliamentary Counsel to the Treasury (England),	Codification of Mercantile Law.
1902.	AMASA M. EATON,	The Origin of Municipal Incorporation in England and in the United States.
1902.	EMLIN MCCLAIN,	The Evolution of the Judicial Opinion.
1903.	SIR FREDERICK POLLOCK, Of the English Bar,	English Law Reporting.
1903.	WILLIAM A. GLASGOW, JR.,	A Dangerous Tendency of Legislation.
1904.	J. M. DICKINSON,	The Alaskan Boundary Case.
1904.	BENJAMIN F. ABBOTT,	To what Extent will a Nation Protect its Citizens in Foreign Countries?
1905.	RICHARD LOCKHART HAND,	Government by the People.

PAPERS READ.

SECTION OF LEGAL EDUCATION.

YEAR.	NAME.	SUBJECT.
1893.	AUSTIN ABBOTT,	Existing Questions of Legal Education.
1893.	SAMUEL WILLISTON,	Legal Education.
1893.	EMLIN MCCLAIN,	The Best Method of Using Cases in Teaching Law.
1894.	HENRY WADE ROGERS,	Annual Address as Chairman.
1894.	JOHN F. DILLON,	The True Professional Ideal.
1894.	JOHN D. LAWSON,	Some Standards of Legal Education in the West.
1894.	SIMEON E. BALDWIN,	Law School Libraries, and How to Use Them.
1894.	WOODROW WILSON,	Legal Education of Undergraduates.
1894.	JOHN H. WIGMORE,	A Principal of Orthodox Legal Education.
1894.	EDMUND WETMORE,	Some of the Limitations and Requirements of Legal Education in the United States.
1894.	WILLIAM A. KEENER,	The Inductive Method in Legal Education.
1895.	JAMES B. THAYER,	Address as Chairman on The Teaching of English Law at Universities.
1895.	ERNEST W. HUFFCUT,	The Relation of the Law School to the University.
1895.	DAVID J. BREWER,	A Better Education the Great Need of the Profession.
1895.	LYMAN ABBOTT,	The Relation of Law to Our National Development.
1895.	NATHAN S. DAVIS,	The Importance of the Study of Medical Jurisprudence by Students of Law, and the Extent to which it should be Taught in Schools and Colleges for the Education of such Students.

YEAR.	NAME.	SUBJECT.
1896.	EMLIN MCCLAIN,	Address as Chairman, on The Law Curriculum.
1896.	CHARLES M. CAMPBELL,	The Necessity and Importance of the Study of Common-Law Procedure in Legal Education.
1896.	BLEWETT LEE,	Teaching Practice in Law Schools.
1896.	JAMES FAIRBANKS COLBY,	The Collegiate Study of Law.
1896.	AUSTEN G. FOX,	Two Years' Experience of the New York State Board of Law Examiners.
1896.	J. W. POWELL,	On Primitive Institutions.
1896.	JOHN RANDOLPH TUCKER,	What is the Best Training for the American Bar of the Future.
1896.	GEORGE HENRY EMMOTT,	Legal Education in England.
1897.	HENRY E. DAVIS,	Primitive Legal Conceptions in Relation to Modern Law.
1897.	JOHN A. FINCH,	The Law of Insurance in the Law School.
1897.	CHARLES NOBLE GREGORY,	The Wage of the Law Teacher.
1898.	SIMEON E. BALDWIN,	Address as Chairman, on The Readjustment of the Collegiate to the Professional Course.
1898.	EDWARD A. HARRIMAN,	Educational Franchises.
1898.	CHARLES W. NEEDHAM,	Schools of Law: The Subjects, Order and Method of Study.
1899.	WILLIAM WIRT HOWE,	Address as Chairman, on The Study of Comparative Jurisprudence.
1899.	THOMAS BARCLAY,	The Teaching of the Law in France.
1899.	N. W. HOYLES, Q. C.	Legal Education in Canada.
1899.	JOSEPH WALTON, Q. C.,	Notes on the Early History of Legal Studies in England.
1900.	CHARLES NOBLE GREGORY,	Address as Chairman, on the State of Legal Education in the World.
1900.	HARRY B. HUTCHINS,	The Law School as a Factor in University Education.
1900.	WILLIAM DRAPER LEWIS,	The Proper Preparation for the Study of Law.

YEAR.	NAME.	SUBJECT.
1901.	NATHAN ABBOTT,	The Undergraduate Study of Law.
1901.	CLARENCE D. ASHLEY,	Legal Education and Preparation Therefor.
1901.	RALEIGH C. MINOR,	The Graduating Examination in the Law School.
1901.	HARRY SANGER RICHARDS,	Shall Law Schools Give Credit for Office Study?
1901.	WILLIAM P. ROGERS,	Is Law a Field for Woman's Work?
1902.	ERNEST W. HUFFCUT,	A Decade of Progress in Legal Education.
1902.	HENRY S. REDFIELD,	A Defect in Legal Education.
1902.	FRANKLIN M. DANAHER,	Courses of Study for Law Clerks.
1903.	LAWRENCE MAXWELL, JR.,	Examinations for the Bar.
1903.	JAMES B. SCOTT,	The Place of International Law in Legal Education.
1904.	JAMES BARR AMES,	Address as Chairman; Reviewing the actions on legal education of the Association, the Committees on Legal Education and the Section of Legal Education, since 1879.
1904.	GEORGE W. KIRCHWEY,	The Education of the American Lawyer.
1905.	LAWRENCE MAXWELL, JR.,	Address as Chairman; Advocating a higher standard of general education for admission to the Bar.
1905.	NATHAN ABBOTT,	Some Questions before American Law Schools.
1905.	JAMES PARKER HALL,	Practice Work and Elective Studies in the Law School.
1905.	LUCIEN H. ALEXANDER,	Some Admission Requirements Considered Apart from Educational Standards.

PAPERS READ.

SECTION OF PATENT LAW.

YEAR.	NAME.	SUBJECT.
1895.	R. S. TAYLOR,	Patent Law and Practice.
1899.	JAMES H. RAYMOND,	Address as Chairman.
1899.	LESTER L. BOND,	Preliminary Injunctions.
1899.	FREDERICK P. FISH,	The Conditions under which Preliminary Injunctions in Patent Causes should be Granted or Refused.
1899.	E. B. SHERMAN,	Masters in Chancery.
1899.	ARTHUR STEUART,	What Constitutes Invention in the Sense of the Patent Law.
1899.	ROBERT S. TAYLOR,	Shall There be One or More Special Courts of Last Resort in Patent Causes.
1900.	FREDERICK P. FISH,	Address as Chairman.
1900.	LYSANDER HILL,	Unfair Competition in Trade.
1900.	ARTHUR STEUART,	Copyright for Design.
1902.	LESTER L. BOND,	Address as Chairman.
1902.	ARTHUR P. GREELEY,	Pending Trade-Mark Legislation.
1902.	ARTHUR STEUART,	Trade-Marks: Criminal Remedy.
1902.	LYSANDER HILL,	Preliminary Injunction in Patent Suits.
1902.	HAROLD BINNEY,	History and Present Status of the Law Relating to Designs.
1902.	ARTHUR S. BROWNE,	Patent Litigation from the Expert's Standpoint.
1902.	CHARLES MARTINDALE,	Evils of the Present System of Producing Evidence in Equity Causes and a Remedy Therefor.
1902.	MELVILLE CHURCH,	Is the Entire Jurisdiction of the Circuit Courts in the Matter of Suits for the Infringement of Patents Defined by the Act of March 3, 1897?

YEAR.	NAME.	SUBJECT.
1903.	ROBERT H. PARKINSON, . . .	Concerning Federal Trade-Mark Legislation: Its Needs, Whence and What the Power.
1903.	J. NOTA MCGILL, ...	Liability of Officers of a Corporation for Infringement of a Patent.
1904.	EDMUND WETMORE, ...	Address as Chairman, on Some Suggestions as to Reform in Practice and Procedure in Patent Cases in the Federal Courts.
1904.	WILLIAM W. DODGE, ...	A Brief Review of Legislation Proposed at the Latest Session of Congress Pertinent to Patents and Trade-Marks.
1905.	CHARLES H. DUELL, ...	Are Any Changes Desirable in Our Patent System?
1905.	JOSEPH B. CHURCH, ...	Needed Reforms in Interference Practice.

PAPERS READ.

ASSOCIATION OF AMERICAN LAW SCHOOLS.

YEAR.	NAME.	SUBJECT.
1902.	JOSEPH H. BEALE, JR., ...	The First Year Curriculum of Law Schools.
1903.	SIMEON E. BALDWIN, ...	The Study of Elementary Law, a Necessary Stage in Legal Education.
1903.	WILLIAM S. CURTIS, ...	Examinations in Law Schools.
1904.	ERNEST W. HUFFCUT, ...	Address as President, on The Elective System in Law Schools.
1904.	HARRY S. RICHARDS, ...	Entrance Requirements for Law Schools.
1905.		(Joint meeting with Section of Legal Education.)

CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS.

YEAR.	NAME.	SUBJECT.
1904.	AMASA M. EATON, ...	Address as President, on The Negotiable Instruments Law, The Torrens System, Uniform Partnership Act, Marriage and Divorce Laws.
1904.	HORACE L. WILGUS, ...	Should there be a Federal Incorporation Law for Commercial Corporations?
1905.	AMASA M. EATON, ...	Address as President, on Marriage and Divorce Laws, Desertion and Non-Support Laws, and the Negotiable Instruments Law.

PAPERS READ.

CONFERENCE OF STATE BOARDS OF LAW EXAMINERS.

YEAR.	NAME.	SUBJECT.
1904.	LUCIUS H. PERKINS, ...	The State Board—A Landmark in Lawyer-Making.
1904.	HOLLIS R. BAILEY, ...	Practical Suggestions for the Conduct of Bar Examinations.
1904.	W. E. WALZ, ...	The Bar Examination from the Standpoint of the Law School Student.

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* Deceased.

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*Deceased.

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† 1904–1905.

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